

Public Law 102-40
102d Congress

An Act

To amend title 38, United States Code, to improve the capability of the Department of Veterans Affairs to recruit and retain physicians and dentists through increases in special pay authorities, to authorize collective bargaining over conditions of employment for health-care employees of the Department of Veterans Affairs, and for other purposes.

May 7, 1991
[H.R. 598]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) **SHORT TITLE.**—This Act may be cited as the “Department of Veterans Affairs Health-Care Personnel Act of 1991”.

(b) **REFERENCES TO TITLE 38.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

Department of
Veterans Affairs
Health-Care
Personnel Act of
1991.
Government
employees.
38 USC 101 note.

SEC. 2. RENAMING OF VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION.

38 USC 201 note.

(a) **RENAMING.**—The establishment in the Department of Veterans Affairs known as the Veterans Health Services and Research Administration is hereby redesignated as the Veterans Health Administration.

(b) **REFERENCES.**—Any reference to the Veterans Health Services and Research Administration (or to the Department of Medicine and Surgery of the Veterans’ Administration) in any Federal law, Executive order, regulation, delegation of authority, or document of or pertaining to the Department of Veterans Affairs shall be deemed to refer to the Veterans Health Administration.

TITLE I—SPECIAL PAY FOR PHYSICIANS AND DENTISTS

SEC. 101. SHORT TITLE.

This title may be cited as the “Department of Veterans Affairs Physician and Dentist Recruitment and Retention Act of 1991”.

SEC. 102. REVISION AND REORGANIZATION OF SPECIAL PAY STATUTE.

Part V is amended by inserting after chapter 73 the following new chapter:

**“CHAPTER 74—VETERANS HEALTH ADMINISTRATION—
PERSONNEL**

“SUBCHAPTER III—SPECIAL PAY FOR PHYSICIANS AND DENTISTS

“7431. Special pay: authority.

“7432. Special pay: written agreements.

“7433. Special pay: full-time physicians.

“7434. Special pay: part-time physicians.

Department of
Veterans Affairs
Physician and
Dentist
Recruitment and
Retention Act of
1991.
38 USC 101 note.

"7435. Special pay: full-time dentists.

"7436. Special pay: part-time dentists.

"7437. Special pay: general provisions.

"7438. Special pay: coordination with other benefits laws.

"7439. Periodic review of pay of physicians and dentists; quadrennial report.

"7440. Annual report.

"SUBCHAPTER III—SPECIAL PAY FOR PHYSICIANS AND DENTISTS

"§ 7431. Special pay: authority

Regulations.

"(a) In order to recruit and retain highly qualified physicians and dentists in the Veterans Health Administration, the Secretary shall provide special pay under this subchapter. Such special pay shall be provided under regulations that the Secretary shall prescribe to carry out this subchapter. Before prescribing regulations under this subchapter, the Secretary shall receive the recommendations of the Chief Medical Director with respect to those regulations.

"(b) Special pay may be paid to a physician or dentist under this subchapter only upon the execution of, and for the duration of, a written agreement entered into by the physician or dentist in accordance with section 7432 of this title.

"(c) A physician or dentist serving a period of obligated service pursuant to chapter 76 of this title is not eligible for special pay under this subchapter during the first three years of such obligated service, except that, at the discretion of the Secretary and upon the recommendation of the Chief Medical Director, such a physician or dentist may be paid special pay for full-time status during those three years.

"(d)(1) The Secretary may determine categories of positions applicable to either physicians or dentists, or both, in the Veterans Health Administration as to which there is no significant recruitment and retention problem. While any such determination is in effect, the Secretary may not enter into an agreement under this subchapter with a physician or dentist serving in a position covered by the determination. Before making a determination under this paragraph, the Secretary shall receive the recommendations of the Chief Medical Director with respect to the determination.

"(2) Not later than one year after making any such determination with respect to a category of positions, and each year thereafter that such determination remains in effect, the Secretary shall make a redetermination.

"(3) Any determination under this subsection shall be in accordance with regulations prescribed to carry out this subchapter.

"(e) If the Chief Medical Director determines that payment of special pay to a physician or dentist who is employed on a less than half-time basis is the most cost-effective way available for providing needed medical or dental specialist services at a Department facility, the Chief Medical Director may authorize the payment of special pay for factors other than for full-time status to that physician or dentist at a rate computed on the basis of the proportion that the part-time employment of the physician or dentist bears to full-time employment.

"(f) Special pay may not be paid under this section to a physician or dentist who—

"(1) is employed on less than a quarter-time basis or on an intermittent basis;

"(2) occupies an internship or residency training position; or

“(3) is a reemployed annuitant.

“(g)(1) In the case of a physician or dentist who is employed in a position that is covered by a determination by the Secretary under subsection (d)(1) that the Administration does not have a significant recruitment or retention problem with respect to a particular category of positions and who on the day before the effective date of this subchapter was receiving special pay under an agreement entered into under section 4118 of this title (as in effect before such date), the Secretary may pay to that physician or dentist, in addition to basic pay, retention pay under this subsection.

“(2) The annual rate of such retention pay for any individual may not exceed the rate which, when added to the rate of basic pay payable to that individual, is equal to the sum of the annual rate of basic pay and the annual rate of special pay paid to that physician or dentist pursuant to the final agreement with that individual under such section 4118.

“(3) Such retention pay shall be treated for all purposes as special pay paid under subchapter III of chapter 74 of this title.

“(4) Retention pay under this subsection shall be paid under such regulations as the Secretary may prescribe.

“§ 7432. Special pay: written agreements

“(a) An agreement entered into by a physician or dentist under this subchapter shall cover a period of one year of service in the Veterans Health Administration unless the physician or dentist agrees to an agreement for a longer period of service, not to exceed four years, as specified in the agreement. A physician or dentist who has previously entered into such an agreement is eligible to enter into a subsequent agreement unless the physician or dentist has failed to refund to the United States any amount which the physician or dentist is obligated to refund under any such previous agreement.

“(b)(1) An agreement under this subchapter shall provide that, if the physician or dentist entering into the agreement voluntarily, or because of misconduct, fails to complete any of the years of service covered by the agreement (measured from the anniversary date of the agreement), the physician or dentist shall refund an amount of special pay received under the agreement for that year equal to—

“(A) in the case of a failure during the first year of service under the agreement, 100 percent of the amount received for that year;

“(B) in the case of a failure during the second year of service under the agreement, 75 percent of the amount received for that year;

“(C) in the case of a failure during the third year of service under the agreement, 50 percent of the amount received for that year; and

“(D) in the case of a failure during the fourth year of service under the agreement, 25 percent of the amount received for that year.

“(2) The Secretary may waive (in whole or in part) the requirement for a refund under paragraph (1) in any case if the Secretary determines (in accordance with regulations prescribed under section 7431(a) of this title) that the failure to complete such period of service is the result of circumstances beyond the control of the physician or dentist.

“(3) Any such agreement shall specify the terms under which the Department and the physician or dentist may elect to terminate the agreement.

“(c)(1) If a proposed agreement under this subchapter will provide a total annual amount of special pay to be provided to a physician or dentist who has previously entered into an agreement under this subchapter (or under section 4118 of this title as in effect before the effective date of the Department of Veterans Affairs Physician and Dentist Recruitment and Retention Act of 1991) that will exceed the previous annual amount of special pay provided for the physician or dentist by more than 50 percent (other than in the case of a physician or dentist employed in an executive position in the Central Office of the Department), or that will be less than the previous annual amount of special pay provided for the physician or dentist by more than 25 percent, the proposed agreement shall be promptly submitted to the Secretary. The proposed agreement shall not take effect if it is disapproved by the Secretary within 60 days after the date on which the physician or dentist entered into the proposed agreement.

“(2) For purposes of paragraph (1), the previous annual amount of special pay provided for a physician or dentist is the total annual amount of special pay provided, or to be provided, to the physician or dentist for the most recent year covered by an agreement entered into by the physician or dentist under this subchapter or under section 4118 of this title. In the case of an agreement entered into under section 4118 of this title, incentive pay shall be treated as special pay for purposes of this paragraph.

“(3) The Secretary shall adjust special pay as necessary for purposes of this subsection to reflect appropriately any change in the status of a physician or dentist (A) from full-time status to part-time status, (B) from part-time status to full-time status, or (C) from one proportion of time spent as a Department employee under part-time status employment to a different proportion.

“(d)(1) If a proposed agreement under this subchapter (other than an agreement in the case of the Chief Medical Director) will provide a total annual amount of special pay to be provided to a physician or dentist which, when added to the amount of basic pay of the physician or dentist, will be in excess of the amount payable for positions specified in section 5312 of title 5, the proposed agreement shall be promptly submitted for approval to the Secretary through the Chief Medical Director. The agreement shall take effect at the end of the 60-day period beginning on the date on which the physician or dentist entered into the proposed agreement if it is neither approved nor disapproved within that 60-day period. If the agreement is approved within that period, the agreement shall take effect as of the date of the approval. A proposed agreement may be disapproved under this paragraph only if it is determined that the amounts of special pay proposed to be paid are not necessary to recruit or retain the physician or dentist.

“(2) A proposed agreement under this subchapter with the Chief Medical Director may provide for payment of special pay for which the Chief Medical Director is eligible under this subchapter (other than that specified in section 7433(b)(4)(B) of this title) only to the extent specifically approved by the Secretary.

“(3) The Secretary shall include in the annual report required by section 7440 of this title—

Effective date.

“(A) a statement of the number of agreements entered into during the period covered by the report under which the total amount of special pay to be provided, when added to the amount of basic pay of the physician or dentist, will be in excess of the amount payable for positions specified in section 5312 of title 5;

“(B) a statement of the number of proposed agreements which during the period covered by the report were disapproved under this subsection; and

“(C) a detailed explanation of the basis for disapproval of each such proposed agreement which was disapproved under this subsection.

“(4) This subsection does not apply to any proposed agreement entered into after September 30, 1994.

“§ 7433. Special pay: full-time physicians

“(a) The Secretary shall provide special pay under this subchapter to eligible physicians employed on a full-time basis based upon the factors, and at the annual rates, specified in subsection (b).

“(b) The special pay factors, and the annual rates, applicable to full-time physicians are as follows:

“(1) For full-time status, \$9,000.

“(2)(A) For length of service as a physician within the Veterans Health Administration—

“Length of Service	Rate	
	Mini- mum	Maxi- mum
2 years but less than 4 years	\$4,000	\$ 6,000
4 years but less than 8 years	6,000	12,000
8 years but less than 12 years	12,000	18,000
12 years or more	12,000	25,000

“(B) The Chief Medical Director shall specify a uniform national rate for each range of years of service established by or under this paragraph. The Chief Medical Director may, as to length of service in excess of 12 years, establish uniform national rates for such ranges of years of service as the Chief Medical Director considers appropriate.

“(3)(A) For service in a medical specialty with respect to which there are extraordinary difficulties (on a nation-wide basis or on the basis of the needs of a specific medical facility) in the recruitment or retention of qualified physicians, an annual rate of not more than \$40,000.

“(B) For service by a physician who serves only a portion of a year in a medical specialty for which special pay is paid under subparagraph (A), the annual rate shall be calculated on the basis of the proportion of time served in the specialty for which the special pay is paid.

“(4)(A) For service in any of the following executive positions, an annual rate not to exceed the rate applicable to that position as follows:

"Position	Rate	
	Mini- mum	Maxi- mum
Service Chief (or in a comparable position as determined by the Secretary).	\$4,500	\$15,000
Chief of Staff or in an Executive Grade	14,500	25,000
Director Grade.....	0	25,000

"(B) For service in any of the following executive positions, the annual rate applicable to that position as follows:

"Position	Rate
"Deputy Service Director	\$20,000
"Service Director	25,000
"Deputy Assistant Chief Medical Director	27,500
"Assistant Chief Medical Director	30,000
"Associate Deputy Chief Medical Director	35,000
"Deputy Chief Medical Director	40,000
"Chief Medical Director	45,000

"(C) For service by a physician who serves only a portion of a year in an executive position listed in subparagraph (A) or (B) or who serves a portion of a year in such a position and also serves a portion of that year in another position or grade for which special pay is provided under this section, the annual rate shall be calculated on the basis of the proportion of time served in the position or positions for which special pay is provided.

"(5) For specialty certification or first board certification, \$2,000, and for subspecialty certification or secondary board certification, an additional \$500.

"(6) For service in a specific geographic location with respect to which there are extraordinary difficulties in the recruitment or retention of qualified physicians in a specific category of physicians, an annual rate of not more than \$17,000.

"(7)(A) For service by a physician with exceptional qualifications within a specialty, an annual rate of not more than \$15,000.

"(B) Special pay under this paragraph may be paid to a physician only if the payment of such pay to that physician is approved by the Chief Medical Director personally and on a case-by-case basis and only to the extent that the rate paid under this paragraph, when added to the total of the rates paid to that physician under paragraphs (1) through (6), does not exceed the total rate that may be paid under those paragraphs to a physician with the same length of service, specialty, and position as the physician concerned.

"§ 7434. Special pay: part-time physicians

"(a) Subject to section 7431(e) of this title and subsection (b) of this section, special pay under this subchapter for physicians employed on a part-time basis shall be based on the special-pay factors and annual rates specified in section 7433 of this title.

"(b) The annual rate of special pay paid to a physician employed on a part-time basis shall bear the same ratio to the annual rate that the physician would be paid under section 7433 (other than for full-time status) if the physician were employed on a full-time basis as the amount of part-time employment by the physician bears to full-time employment, except that such ratio may not exceed 3/4.

“§ 7435. Special pay: full-time dentists

“(a) The Secretary shall provide special pay under this subchapter to eligible dentists employed on a full-time basis based upon the factors, and at the annual rates, specified in subsection (b).

“(b) The special pay factors, and the annual rates, applicable to full-time dentists are as follows:

“(1) For full-time status, \$3,500.

“(2)(A) For length of service as a dentist within the Veterans Health Administration—

“Length of Service	Rate	
	Mini- mum	Maxi- mum
2 years but less than 4 years	\$1,000	\$2,000
4 years but less than 8 years	2,000	3,000
8 years but less than 12 years	3,000	3,500
12 years or more.....	3,000	4,000

“(B) The Chief Medical Director shall specify a uniform national rate for each range of years of service established by or under this paragraph. The Chief Medical Director may, as to length of service in excess of 12 years, establish uniform national rates for such ranges of years of service as the Chief Medical Director considers appropriate.

“(3)(A) For service in a dental specialty with respect to which there are extraordinary difficulties (on a nation-wide basis or on the basis of the needs of a specific medical facility) in the recruitment or retention of qualified dentists, an annual rate of not more than \$20,000.

“(B) For service by a dentist who serves only a portion of a year in a dental specialty for which special pay is paid under subparagraph (A), the annual rate shall be calculated on the basis of the proportion of time served in the specialty for which the special pay is paid.

“(4)(A) For service in any of the following executive positions, an annual rate not to exceed the rate applicable to that position as follows:

“Position	Rate	
	Mini- mum	Maxi- mum
Service Director.....	\$1,000	\$9,000
Deputy Service Director	1,000	8,000
Chief of Staff or in an Executive Grade	1,000	8,000
Director Grade.....	0	8,000
Service Chief (or in a comparable position as determined by the Secretary).	1,000	5,000

“(B) For service in any of the following executive positions, the annual rate applicable to that position as follows:

“Position	Rate
Assistant Chief Medical Director (or in a comparable position as determined by the Secretary).	\$10,000
Deputy Assistant Chief Medical Director	10,000

“(C) For service by a dentist who serves only a portion of a year in an executive position listed in subparagraph (A) or (B) or who serves a portion of a year in such a position and also serves a portion of that year in another position or grade for which special pay is provided under this section, the annual rate shall be calculated on the basis of the proportion of time served in the position or positions for which special pay is provided.

“(5) For specialty or first board certification, \$2,000 and for subspecialty or secondary board certification, an additional \$500.

“(6) For service in a specific geographic location with respect to which there are extraordinary difficulties in the recruitment or retention of qualified dentists in a specific category of dentists, an annual rate not more than \$5,000.

“(7)(A) For service by a dentist with exceptional qualifications within a specialty, an annual rate of not more than \$5,000.

“(B) Special pay under this paragraph may be paid to a dentist only if the payment of such pay to that dentist is approved by the Chief Medical Director personally and on a case-by-case basis and only to the extent that the rate paid under this paragraph, when added to the total of the rates paid to that dentist under paragraphs (1) through (6), does not exceed the total rate that may be paid under those paragraphs to a dentist with the same length of service, specialty, and position as the dentist concerned.

“§ 7436. Special pay: part-time dentists

“(a) Subject to section 7431(e) of this title and subsection (b) of this section, special pay under this subchapter for dentists employed on a part-time basis shall be based on the special-pay factors and annual rates specified in section 7435 of this title.

“(b) The annual rate of special pay paid to a dentist employed on a part-time basis shall bear the same ratio to the annual rate that the dentist would be paid under section 7435 of this title (other than for full-time status) if the dentist were employed on a full-time basis as the amount of part-time employment by the dentist bears to full-time employment, except that such ratio may not exceed 3/4.

“§ 7437. Special pay: general provisions

“(a) A physician who is provided special pay for service in an executive position under paragraph (4)(B) of section 7433(b) of this title may not also be provided scarce specialty special pay under paragraph (3) of that section. A dentist who is provided special pay for service in an executive position under paragraph (4) of section 7435(b) of this title for service as a Service Director, Deputy Service Director, Deputy Assistant Chief Medical Director, or Assistant Chief Medical Director may not also be provided scarce specialty special pay under paragraph (3) of that section.

“(b) The following determinations under this subchapter shall be made under regulations prescribed under section 7431 of this title:

“(1) A determination that there are extraordinary difficulties (on a nation-wide basis or on the basis of the needs of a specific medical facility) in the recruitment or retention of qualified physicians in a medical specialty or in the recruitment or retention of qualified dentists in a dental specialty.

Regulations.

"(2) A determination of the rate of special pay to be paid to a physician or dentist for a factor of special pay for which the applicable rate is specified as a range of rates.

"(3) A determination of whether there are extraordinary difficulties in a specific geographic location in the recruitment or retention of qualified physicians in a specific category of physicians or in the recruitment or retention of qualified dentists in a specific category of dentists.

"(c) A determination for the purposes of this subchapter that there are extraordinary difficulties in the recruitment or retention of qualified physicians in a medical specialty, or in the recruitment or retention of qualified dentists in a dental specialty, on the basis of the needs of a specific medical facility may only be made upon the request of the director of that facility.

"(d) A physician or dentist may not be provided scarce specialty pay under section 7433(b), 7434(b), 7435(b), or 7436(b) of this title (whichever is applicable) on the basis of the needs of a specific medical facility unless the Secretary also determines that geographic location pay under that section is insufficient to meet the needs of that facility for qualified physicians or dentists, as the case may be.

"(e)(1) A physician or dentist shall be paid special pay under this subchapter at a rate not less than the rate of special pay the physician or dentist was paid under section 4118 of this title as of the day before the effective date of this subchapter if the physician or dentist—

"(A) is employed on a full-time basis in the Veterans Health Administration;

"(B) was employed as a physician or dentist on a full-time basis in the Administration on the day before such effective date; and

"(C) on such effective date was being paid only for the special-pay factors of primary, full-time, and length of service.

"(2) A physician or dentist shall be paid special pay under this subchapter at a rate not less than the rate of special pay the physician or dentist was paid under section 4118 of this title as of the day before the effective date of this subchapter if the physician or dentist—

"(A) is employed on a part-time basis in the Veterans Health Administration;

"(B) was employed as a physician or dentist on a part-time basis in the Administration on the day before such effective date; and

"(C) on such effective date was being paid only for the special-pay factors of primary and length of service.

"(f) Any amount of special pay payable under this subchapter shall be paid in equal installments in accordance with regularly established pay periods.

"(g) Except as otherwise expressly provided by law, special pay may not be provided to a physician or dentist in the Veterans Health Administration for any factor not specified in section 7433, 7434, 7435, or 7436, as applicable, of this title.

"(h) In no case may the total amount of compensation paid to a physician or dentist under this title in any year exceed the amount of annual compensation (excluding expenses) specified in section 102 of title 3.

"§ 7438. Special pay: coordination with other benefits laws

"(a) Special pay paid under this subchapter shall be in addition to any other pay and allowances to which a physician or dentist is entitled.

"(b)(1) A physician or dentist who has no section 4118 service and has completed not less than 15 years of service as a physician or dentist in the Veterans Health Administration shall be entitled to have special pay paid to the physician or dentist under this subchapter considered basic pay for the purposes of chapter 83 or 84 of title 5, as appropriate.

"(2) A physician or dentist who has section 4118 service and has completed a total of not less than 15 years of service as a physician or dentist in the Veterans Health Administration shall be entitled to have special pay paid to the physician or dentist under this subchapter considered basic pay for the purposes of chapter 83 or 84, as appropriate, of title 5 as follows:

"(A) In an amount equal to the amount that would have been so considered under section 4118 of this title on the day before the effective date of this section based on the rates of special pay the physician or dentist was entitled to receive under that section on the day before such effective date.

"(B) With respect to any amount of special pay received under this subchapter in excess of the amount such physician or dentist was entitled to receive under section 4118 of this title on the day before the effective date of this section, in an amount equal to 25 percent of such excess amount for each two years that the physician or dentist has completed as a physician or dentist in the Veterans Health Administration after the effective date of this section.

"(3) All special pay paid under this subchapter shall be included in average pay (as defined in sections 8331(4) or 8401(3) of title 5, as appropriate) for purposes of computing benefits paid under section 8337, 8341 (d) or (e), 8442(b), 8443, or 8451 of such title.

"(4) Special pay paid under section 4118 of this title, as in effect before the effective date of this section, to a physician or dentist who has section 4118 service shall be credited to the physician or dentist for the same purposes and in the same manner and to the same extent that such special pay was credited to the physician or dentist before such effective date.

"(5) For purposes of this subsection:

"(A) The term 'physician or dentist who has no section 4118 service' means a physician or dentist employed as a physician or dentist in the Veterans Health Administration who has no previous service as a physician or dentist in the Administration (or its predecessor) before the effective date of this section.

"(B) The term 'physician or dentist who has section 4118 service' means a physician or dentist employed as a physician or dentist in the Veterans Health Administration who has previous service as a physician or dentist in the Administration (or its predecessor) before the effective date of this section.

"(C) Service in any predecessor entity of the Veterans Health Administration shall be considered to be service in the Veterans Health Administration.

"(c) Compensation paid as special pay under this subchapter or under an agreement entered into under section 4118 of this title (as in effect on the day before the effective date of the Department of

Veterans Affairs Physician and Dentist Recruitment and Retention Act of 1991) shall be considered as annual pay for the purposes of chapter 87 of title 5, relating to life insurance for Federal employees.

“§ 7439. Periodic review of pay of physicians and dentists; quadrennial report

“(a) In order to make possible the recruitment and retention of a well-qualified work force of physicians and dentists capable of providing quality care for eligible veterans, it is the policy of Congress to ensure that the levels of total pay for physicians and dentists of the Veterans Health Administration are fixed at levels reasonably comparable—

“(1) with the levels of total pay of physicians and dentists employed by or serving in other departments and agencies of the Federal Government; and

“(2) with the income of non-Federal physicians and dentists for the performance of services as physicians and dentists.

“(b)(1) To assist the Congress and the President in carrying out the policy stated in subsection (a), the Secretary shall—

“(A) define the bases for pay distinctions, if any, among various categories of physicians and dentists, including distinctions between physicians and dentists employed by the Veterans Health Administration and physicians and dentists employed by other departments and agencies of the Federal Government and between all Federal sector and non-Federal sector physicians and dentists; and

“(B) obtain measures of income from the employment or practice of physicians and dentists outside the Administration, including both the Federal and non-Federal sectors, for use as guidelines for setting and periodically adjusting the amounts of special pay for physicians and dentists of the Administration.

“(2) The Secretary shall submit to the President a report, on such date as the President may designate but not later than December 31, 1994, and once every four years thereafter, recommending appropriate rates of special pay to carry out the policy set forth in subsection (a) with respect to the pay of physicians and dentists in the Veterans Health Administration. The Secretary shall include in such report, when considered appropriate and necessary by the Secretary, recommendations for modifications of the special pay levels set forth in this subchapter whenever—

“(A) the Department is unable to recruit or retain a sufficient work force of well-qualified physicians and dentists in the Administration because the incomes and other employee benefits, to the extent that those benefits are reasonably quantifiable, of physicians and dentists outside the Administration who perform comparable types of duties are significantly in excess of the levels of total pay (including basic pay and special pay) and other employee benefits, to the extent that those benefits are reasonably quantifiable, available to those physicians and dentists employed by the Administration; or

“(B) other extraordinary circumstances are such that special pay levels are needed to recruit or retain a sufficient number of well-qualified physicians and dentists.

“(c) The President shall include in the budget transmitted to the Congress under section 1105 of title 31 after the submission of each report of the Secretary under subsection (b)(2) recommendations with respect to the exact rates of special pay for physicians and

President.

dentists under this subchapter and the cost of those rates compared with the cost of the special pay rates in effect under this subchapter at the time the budget is transmitted.

"§ 7440. Annual report

"The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report on the use of the authorities provided in this subchapter. The report shall be submitted each year as part of the budget justification documents submitted by the Secretary in support of the budget of the President submitted pursuant to section 1105 of title 31 that year. Each such report shall include the following:

"(1) A review of the use of the authorities provided in this subchapter (including the Secretary's and Chief Medical Director's actions, findings, recommendations, and other activities under this subchapter) during the preceding fiscal year and the fiscal year during which the report is submitted.

"(2) The plans for the use of the authorities provided in this subchapter for the next fiscal year.

"(3) A description of the amounts of special pay paid during the preceding fiscal year, shown by category of pay.

"(4) A list of those geographic areas, and those scarce specialties, for which special pay was paid during the preceding fiscal year, those for which special pay is being paid during the current fiscal year, and those for which special pay is expected to be paid during the next fiscal year, together with a summary of any differences among those three lists.

"(5) The number of physicians and dentists (A) who left employment with the Veterans Health Administration during the preceding year, (B) who changed from full-time status to part-time status, (C) who changed from part-time status to full-time status, as well as (D) a summary of the reasons therefor.

"(6) By specialty, the number of positions created and the number of positions abolished during the preceding fiscal year and a summary of the reasons for such actions.

"(7) The number of unfilled physician and dentist positions in each specialty in the Veterans Health Administration, the average and maximum lengths of time that such positions have been unfilled, and a summary of the reasons that such positions remain unfilled and, in the case of any specialty not designated as a scarce specialty for purposes of special pay under this subchapter, an explanation (including comparisons with other specialties that have been so designated) of why the specialty has not been so designated."

SEC. 103. OTHER COMPENSATION BENEFITS.

(a) **IN GENERAL.**—Subchapter I of chapter 74 (as added by section 401(b)(2)) is amended by adding at the end the following sections:

"§ 7410. Additional pay authorities

"The Secretary may authorize the Chief Medical Director to pay advance payments, recruitment or relocation bonuses, and retention allowances to the personnel described in paragraph (1) of section 7401 of this title, or interview expenses to candidates for appointment as such personnel, in the same manner, and subject to the same limitations, as in the case of the authority provided under sections 5524a, 5706b, 5753, and 5754 of title 5.

“§ 7411. Full-time board-certified physicians and dentists: reimbursement of continuing professional education expenses

“The Secretary shall reimburse any full-time board-certified physician or dentist appointed under section 7401(1) of this title for expenses incurred, up to \$1,000 per year, for continuing professional education.”

(2) The table of sections at the beginning of chapter 74 (as amended by section 401(b)(1)(A)) is amended by inserting after the item relating to section 7409 the following:

“7410. Additional pay authorities.

“7411. Full-time board-certified physicians and dentists: reimbursement of continuing professional education expenses.”

(b) **EFFECTIVE DATE.**—Section 7411 of title 38, United States Code, as added by subsection (a), shall apply with respect to expenses incurred for continuing professional education that is pursued after September 30, 1991.

38 USC 7411
note.

SEC. 104. EFFECTIVE DATE AND TRANSITION.

38 USC 7431
note.

(a) **EFFECTIVE DATE.**—Subchapter III of chapter 74 of title 38, United States Code, as added by section 102, shall take effect on the first day of the first pay period beginning after the earlier of—

(1) July 1, 1991; or

(2) the end of the 90-day period beginning on the date of the enactment of this Act.

(b) **TRANSITIONS PROVISIONS.**—(1) In the case of an agreement entered into under section 4118 of title 38, United States Code, before the date of the enactment of this Act that expires after the effective date specified in subsection (a), the Secretary of Veterans Affairs and the physician or dentist concerned may agree to terminate that agreement as of that effective date in order to permit a new agreement under subchapter III of chapter 74 of title 38, United States Code, as added by section 102, to take effect as of that effective date.

(2) In the case of an agreement entered into under section 4118 of title 38, United States Code, before the date of the enactment of this Act that expires during the period beginning on the date of the enactment of this Act and ending on the effective date specified in subsection (a), an extension or renewal of that agreement may not extend beyond that effective date.

(3) In the case of a physician or dentist who begins employment with the Department of Veterans Affairs during the period beginning on the date of the enactment of this Act and ending on the effective date specified in subsection (a) who is eligible for an agreement under section 4118 of title 38, United States Code, any such agreement may not extend beyond that effective date.

(c) **SAVINGS PROVISION.**—Except as provided in subsection (b)(1), any agreement entered into under section 4118 of title 38, United States Code, before the effective date specified in subsection (a) shall remain in effect in accordance with its terms and shall be treated for all purposes in accordance with such section as in effect on the day before such effective date.

(d) **PROHIBITION OF RETROACTIVE AGREEMENTS.**—An agreement entered into under subchapter III of chapter 74 of title 38, United States Code, as added by section 102, may not provide special pay

with respect to a period before the effective date specified in subsection (a).

Department of
Veterans Affairs
Labor Relations
Improvement
Act of 1991.
38 USC 101 note.

TITLE II—LABOR-MANAGEMENT RELATIONS

SEC. 201. SHORT TITLE.

This title may be cited as the "Department of Veterans Affairs Labor Relations Improvement Act of 1991".

SEC. 202. COLLECTIVE BARGAINING FOR TITLE 38 EMPLOYEES.

Chapter 74, as added by section 102, is amended by inserting before subchapter III the following:

"SUBCHAPTER II—COLLECTIVE BARGAINING AND PERSONNEL ADMINISTRATION

"§ 7421. Personnel administration: in general

Regulations.

"(a) Notwithstanding any law, Executive order, or regulation, the Secretary shall prescribe by regulation the hours and conditions of employment and leaves of absence of employees appointed under any provision of this chapter in positions in the Veterans Health Administration listed in subsection (b).

"(b) Subsection (a) refers to the following positions:

- "(1) Physicians.
- "(2) Dentists.
- "(3) Podiatrists.
- "(4) Optometrists.
- "(5) Registered nurses.
- "(6) Physician assistants.
- "(7) Expanded-duty dental auxiliaries.

"§ 7422. Collective bargaining

"(a) Except as otherwise specifically provided in this title, the authority of the Secretary to prescribe regulations under section 7421 of this title is subject to the right of Federal employees to engage in collective bargaining with respect to conditions of employment through representatives chosen by them in accordance with chapter 71 of title 5 (relating to labor-management relations).

"(b) Such collective bargaining (and any grievance procedures provided under a collective bargaining agreement) in the case of employees described in section 7421(b) of this title may not cover, or have any applicability to, any matter or question concerning or arising out of (1) professional conduct or competence, (2) peer review, or (3) the establishment, determination, or adjustment of employee compensation under this title.

"(c) For purposes of this section, the term 'professional conduct or competence' means any of the following:

- "(1) Direct patient care.
- "(2) Clinical competence.

"(d) An issue of whether a matter or question concerns or arises out of (1) professional conduct or competence, (2) peer review, or (3) the establishment, determination, or adjustment of employee compensation under this title shall be decided by the Secretary and is not itself subject to collective bargaining and may not be reviewed by any other agency.

“(e) A petition for judicial review or petition for enforcement under section 7123 of title 5 in any case involving employees described in section 7421(b) of this title or arising out of the applicability of chapter 71 of title 5 to employees in those positions, shall be taken only in the United States Court of Appeals for the District of Columbia Circuit.

“§ 7423. Personnel administration: full-time employees

“(a) The hours of employment in carrying out responsibilities under this title of any employee who is appointed in the Administration under any provision of this chapter on a full-time basis in a position listed in section 7421(b) of this title (other than an intern or resident appointed pursuant to section 7406 of this title) and who accepts responsibilities for carrying out professional services for remuneration other than those assigned under this title shall consist of not less than 80 hours in a biweekly pay period (as that term is used in section 5504 of title 5).

“(b) A person covered by subsection (a) may not do any of the following:

“(1) Assume responsibility for the medical care of any patient other than a patient admitted for treatment at a Department facility, except in those cases where the person, upon request and with the approval of the Chief Medical Director, assumes such responsibilities to assist communities or medical practice groups to meet medical needs which would not otherwise be available for a period not to exceed 180 calendar days, which may be extended by the Chief Medical Director for additional periods not to exceed 180 calendar days each.

“(2) Teach or provide consultative services at any affiliated institution if such teaching or consultation will, because of its nature or duration, conflict with such person's responsibilities under this title.

“(3) Accept payment under any insurance or assistance program established under title XVIII or XIX of the Social Security Act or under chapter 55 of title 10 for professional services rendered by such person while carrying out such person's responsibilities under this title.

“(4) Accept from any source, with respect to any travel performed by such person in the course of carrying out such person's responsibilities under this title, any payment or per diem for such travel, other than as provided for in section 4111 of title 5.

“(5) Request or permit any individual or organization to pay, on such person's behalf for insurance insuring such person against malpractice claims arising in the course of carrying out such person's responsibilities under this title or for such person's dues or similar fees for membership in medical or dental societies or related professional associations, except where such payments constitute a part of such person's remuneration for the performance of professional responsibilities permitted under this section, other than those carried out under this title.

“(6) Perform, in the course of carrying out such person's responsibilities under this title, professional services for the purpose of generating money for any fund or account which is maintained by an affiliated institution for the benefit of such institution, or for such person's personal benefit, or both.

Colleges and
universities.
Records.

"(c) In the case of any fund or account described in subsection (b)(6) that was established before September 1, 1973—

"(1) the affiliated institution shall submit semiannually an accounting to the Secretary and to the Comptroller General of the United States with respect to such fund or account and shall maintain such fund or account subject to full public disclosure and audit by the Secretary and the Comptroller General for a period of three years or for such longer period as the Secretary shall prescribe, and

"(2) no person in a position specified in paragraph (1)(B) may receive any cash from amounts deposited in such fund or account derived from services performed before that date.

"(d) As used in this section:

"(1) The term 'affiliated institution' means a medical school or other institution of higher learning with which the Secretary has a contract or agreement as referred to in section 7313 of this title for the training or education of health personnel.

"(2) The term 'remuneration' means the receipt of any amount of monetary benefit from any non-Department source in payment for carrying out any professional responsibilities."

SEC. 203. ADVERSE PERSONNEL ACTIONS.

(a) REFORM OF DISCIPLINARY PROCEDURES FOR SECTION 7401(1) EMPLOYEES.—Chapter 74, as added by section 102 and amended by section 202, is further amended by adding at the end the following:

"SUBCHAPTER V—DISCIPLINARY AND GRIEVANCE PROCEDURES

"§ 7461. Adverse actions: section 7401(1) employees

"(a) Whenever the Chief Medical Director (or an official designated by the Chief Medical Director) brings charges based on conduct or performance against a section 7401(1) employee and as a result of those charges an adverse personnel action is taken against the employee, the employee shall have the right to appeal the action.

"(b)(1) If the case involves or includes a question of professional conduct or competence in which a major adverse action was taken, such an appeal shall be made to a Disciplinary Appeals Board under section 7462 of this title.

"(2) In any other case, such an appeal shall be made—

"(A) through Department grievance procedures under section 7463 of this title, in any case that involves or includes a question of professional conduct or competence in which a major adverse action was not taken or in any case of an employee who is not covered by a collective bargaining agreement under chapter 71 of title 5; or

"(B) through grievance procedures provided through collective bargaining under chapter 71 of title 5 or through Department grievance procedures under section 7463 of this title, as the employee elects, in the case of an employee covered by a collective bargaining agreement under chapter 71 of title 5 that does not involve or include a question of professional conduct or competence.

"(c) For purposes of this subchapter—

"(1) Section 7401(1) employees are employees of the Department employed on a full-time basis under a permanent appoint-

ment in a position listed in section 7401(1) of this title (other than interns and residents appointed pursuant to section 7406 of this title).

“(2) A major adverse action is an adverse action which includes any of the following:

“(A) Suspension.

“(B) Transfer.

“(C) Reduction in grade.

“(D) Reduction in basic pay.

“(E) Discharge.

“(3) A question of professional conduct or competence is a question involving any of the following:

“(A) Direct patient care.

“(B) Clinical competence.

“(d) An issue of whether a matter or question concerns, or arises out of, professional conduct or competence is not itself subject to any grievance procedure provided by law, regulation, or collective bargaining and may not be reviewed by any other agency.

“(e) Whenever the Secretary proposes to prescribe regulations under this subchapter, the Secretary shall publish the proposed regulations in the Federal Register for notice-and-comment not less than 30 days before the day on which they take effect.

Federal
Register,
publication.

“§ 7462. Major adverse actions involving professional conduct or competence

“(a)(1) Disciplinary Appeals Boards appointed under section 7464 of this title shall have exclusive jurisdiction to review any case—

“(A) which arises out of (or which includes) a question of professional conduct or competence of a section 7401(1) employee; and

“(B) in which a major adverse action was taken.

“(2) The board shall include in its record of decision in any mixed case a statement of the board's exclusive jurisdiction under this subsection and the basis for such exclusive jurisdiction.

“(3) For purposes of paragraph (2), a mixed case is a case that includes both a major adverse action arising out of a question of professional conduct or competence and an adverse action which is not a major adverse action or which does not arise out of a question of professional conduct or competence.

“(b)(1) In any case in which charges are brought against a section 7401(1) employee which arises out of, or includes, a question of professional conduct or competence which could result in a major adverse action, the employee is entitled to the following:

“(A) At least 30 days advance written notice from the Chief Medical Director or other charging official specifically stating the basis for each charge, the adverse actions that could be taken if the charges are sustained, and a statement of any specific law, regulation, policy, procedure, practice, or other specific instruction that has been violated with respect to each charge, except that the requirement for notification in advance may be waived if there is reasonable cause to believe that the employee has committed a crime for which the employee may be imprisoned.

“(B) A reasonable time, but not less than seven days, to present an answer orally and in writing to the Chief Medical Director or other deciding official, who shall be an official

higher in rank than the charging official, and to submit affidavits and other documentary evidence in support of the answer.

"(2) In any case described in paragraph (1), the employee is entitled to be represented by an attorney or other representative of the employee's choice at all stages of the case.

"(3)(A) If a proposed adverse action covered by this section is not withdrawn, the deciding official shall render a decision in writing within 21 days of receipt by the deciding official of the employee's answer. The decision shall include a statement of the specific reasons for the decision with respect to each charge. If a major adverse action is imposed, the decision shall state whether any of the charges sustained arose out of a question of professional conduct or competence. If any of the charges are sustained, the notice of the decision to the employee shall include notice of the employee's rights of appeal.

"(B) Notwithstanding the 21-day period specified in subparagraph (A), a proposed adverse action may be held in abeyance if the employee requests, and the deciding official agrees, that the employee shall seek counseling or treatment for a condition covered under the Rehabilitation Act of 1973. Any such abeyance of a proposed action may not extend for more than one year.

"(4)(A) The Secretary may require that any answer and submission under paragraph (1)(B) be submitted so as to be received within 30 days of the date of the written notice of the charges, except that the Secretary shall allow the granting of extensions for good cause shown.

"(B) The Secretary shall require that any appeal to a Disciplinary Appeals Board from a decision to impose a major adverse action shall be received within 30 days after the date of service of the written decision on the employee.

"(c)(1) When a Disciplinary Appeals Board convenes to consider an appeal in a case under this section, the board, before proceeding to consider the merits of the appeal, shall determine whether the case is properly before it.

"(2) Upon hearing such an appeal, the board shall, with respect to each charge appealed to the board, sustain the charge, dismiss the charge, or sustain the charge in part and dismiss the charge in part. If the deciding official is sustained (in whole or in part) with respect to any such charge, the board shall—

"(A) approve the action as imposed;

"(B) approve the action with modification, reduction, or exception; or

"(C) reverse the action.

"(3) A board shall afford an employee appealing an adverse action under this section an opportunity for an oral hearing. If such a hearing is held, the board shall provide the employee with a transcript of the hearing.

"(4) The board shall render a decision in any case within 45 days of completion of the hearing, if there is a hearing, and in any event no later than 120 days after the appeal commenced.

"(d)(1) After resolving any question as to whether a matter involves professional conduct or competence, the Secretary shall cause to be executed the decision of the Disciplinary Appeals Board in a timely manner and in any event in not more than 90 days after the decision of the Board is received by the Secretary. Pursuant to the board's decision, the Secretary may order reinstatement, award back pay, and provide such other remedies as the board found

appropriate relating directly to the proposed action, including expungement of records relating to the action.

“(2) If the Secretary finds a decision of the board to be clearly contrary to the evidence or unlawful, the Secretary may—

“(A) reverse the decision of the board, or

“(B) vacate the decision of the board and remand the matter to the Board for further consideration.

“(3) If the Secretary finds the decision of the board (while not clearly contrary to the evidence or unlawful) to be not justified by the nature of the charges, the Secretary may mitigate the adverse action imposed.

“(4) The Secretary’s execution of a board’s decision shall be the final administrative action in the case.

“(e) The Secretary may designate an employee of the Department to represent management in any case before a Disciplinary Appeals Board.

“(f)(1) A section 7401(1) employee adversely affected by a final order or decision of a Disciplinary Appeals Board (as reviewed by the Secretary) may obtain judicial review of the order or decision.

“(2) In any case in which judicial review is sought under this subsection, the court shall review the record and hold unlawful and set aside any agency action, finding, or conclusion found to be—

“(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

“(B) obtained without procedures required by law, rule, or regulation having been followed; or

“(C) unsupported by substantial evidence.

“§ 7463. Other adverse actions

“(a) The Secretary shall prescribe by regulation procedures for the consideration of grievances of section 7401(1) employees arising from adverse personnel actions in which each action taken either— Regulations.

“(1) is not a major adverse action; or

“(2) does not arise out of a question of professional conduct or competence.

Disciplinary Appeals Boards shall not have jurisdiction to review such matters, other than as part of a mixed case (as defined in section 7462(a)(3) of this title).

“(b) In the case of an employee who is a member of a collective bargaining unit under chapter 71 of title 5, the employee may seek review of an adverse action described in subsection (a) either under the grievance procedures provided through regulations prescribed under subsection (a) or through grievance procedures determined through collective bargaining, but not under both. The employee shall elect which grievance procedure to follow. Any such election may not be revoked.

“(c)(1) In any case in which charges are brought against a section 7401(1) employee which could result in a major adverse action and which do not involve professional conduct or competence, the employee is entitled to the same notice and opportunity to answer with respect to those charges as provided in subparagraphs (A) and (B) of section 7462(b)(1) of this title.

“(2) In any other case in which charges are brought against a section 7401(1) employee, the employee is entitled to—

“(A) an advance written notice stating the specific reason for the proposed action, and

“(B) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer.

“(d) Grievance procedures prescribed under subsection (a) shall include the following:

“(1) A right to formal review by an impartial examiner within the Department of Veterans Affairs, who, in the case of an adverse action arising from a question of professional conduct or competence, shall be selected from the panel designated under section 7464 of this title.

“(2) A right to a prompt report of the findings and recommendations by the impartial examiner.

“(3) A right to a prompt review of the examiner’s findings and recommendations by an official of a higher level than the official who decided upon the action. That official may accept, modify, or reject the examiner’s recommendations.

“(e) In any review of an adverse action under the grievance procedures prescribed under subsection (a), the employee is entitled to be represented by an attorney or other representative of the employee’s choice at all stages of the case.

“§ 7464. Disciplinary Appeals Boards

“(a) The Secretary shall from time to time appoint boards to hear appeals of major adverse actions described in section 7462 of this title. Such boards shall be known as Disciplinary Appeals Boards. Each board shall consist of three employees of the Department, each of whom shall be of the same grade as, or be senior in grade to, the employee who is appealing an adverse action. At least two of the members of each board shall be employed in the same category of position as the employee who is appealing the adverse action. Members of a board shall be appointed from individuals on the panel established under subsection (d).

“(b)(1) In appointing a board for any case, the Secretary shall designate one of the members to be chairman and one of the members to be secretary of the board, each of whom shall have authority to administer oaths.

“(2) Appointment of boards, and the proceedings of such boards, shall be carried out under regulations prescribed by the Secretary. A verbatim record shall be maintained of board hearings.

“(c)(1) Notwithstanding sections 5701 and 7332 of this title, the chairman of a board, upon request of an employee whose case is under consideration by the board (or a representative of that employee) may, in connection with the considerations of the board, review records or information covered by those sections and may authorize the disclosure of such records or information to that employee (or representative) to the extent the board considers appropriate for purposes of the proceedings of the board in that case.

“(2) In any such case the board chairman may direct that measures be taken to protect the personal privacy of individuals whose records are involved. Any person who uses or discloses a record or information covered by this subsection for any purpose other than in connection with the proceedings of the board shall be fined not more than \$5,000 in the case of a first offense and not more than \$20,000 in the case of a subsequent offense.

“(d)(1) The Secretary shall provide for the periodic designation of employees of the Department who are qualified to serve on Disciplinary Appeals Boards. Those employees shall constitute the panel

Regulations.
Records.

Penalties.

from which board members in a case are appointed. The Secretary shall provide (without charge) a list of the names of employees on the panel to any person requesting such list.

“(2) The Secretary shall announce periodically, and not less often than annually, that the roster of employees on the panel is available as described in paragraph (1). Such announcement shall be made at Department medical facilities and through publication in the Federal Register. Notice of a name being on the list must be provided at least 30 days before the individual selected may serve on a Board or as a grievance examiner. Employees, employee organizations, and other interested parties may submit comments to the Secretary concerning the suitability for service on the panel of any employee whose name is on the list.

Federal
Register,
publication.

“(3) The Secretary shall provide training in the functions and duties of Disciplinary Appeals Boards and grievance procedures under section 7463 of this title for employees selected to be on the panel.”

Training
programs.

(b) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 74, as added by section 102, is amended—

(1) by inserting before the item relating to subchapter III the following:

“SUBCHAPTER II—COLLECTIVE BARGAINING AND PERSONNEL ADMINISTRATION

“7421. Personnel administration: in general.

“7422. Collective bargaining.

“7423. Personnel administration: full-time employees.”; and

(2) by adding at the end the following:

“SUBCHAPTER V—DISCIPLINARY AND GRIEVANCE PROCEDURES

“7461. Adverse actions: section 7401(1) employees.

“7462. Major adverse actions involving professional conduct or competence.

“7463. Other adverse actions.

“7464. Disciplinary Appeals Boards.”.

SEC. 204. DEADLINE FOR REGULATIONS.

38 USC 7461
note.

The Secretary of Veterans Affairs shall prescribe regulations under subchapter V of chapter 74 of title 38, United States Code (as added by section 203), not later than 180 days after the date of the enactment of this Act. Such regulations shall be published in the Federal Register for notice-and-comment not less than 30 days before the day on which they take effect.

Federal
Register,
publication.

SEC. 205. PRESERVATION OF EXISTING COLLECTIVE-BARGAINING ARRANGEMENTS AND PENDING ACTIONS.

38 USC 7421
note.

(a) EXISTING COLLECTIVE-BARGAINING ARRANGEMENTS.—Any determination under chapter 71 of title 5, United States Code, of a collective bargaining unit within the Veterans Health Administration of the Department of Veterans Affairs, and any recognition under that chapter of an employee labor organization as the exclusive bargaining representative for employees in a collective bargaining unit of the Department of Veterans Affairs, that is in effect on the date of the enactment of this Act shall not be affected by the amendments made by this Act and shall continue in effect in accordance with the terms of such determination or regulation.

(b) PENDING CASES.—With respect to cases pending on the date of the enactment of this Act, or those cases which are brought before the establishment of either an administrative grievance procedure

pursuant to section 7463 of title 38, United States Code (as added by the amendments made by this title), or a negotiated grievance procedure established under a collective bargaining agreement, such cases shall proceed in the same manner as they would have if this Act had not been enacted.

TITLE III—MISCELLANEOUS

SEC. 301. AMENDMENTS TO PROVISIONS ENACTED BY THE DEPARTMENT OF VETERANS AFFAIRS NURSE PAY ACT OF 1990.

38 USC 7451
note.

(a) SAVINGS PROVISION.—Physician assistants and expanded-function dental auxiliaries shall continue to be paid after August 14, 1990, according to the Nurse Schedule in section 4107(b) of title 38, United States Code, as in effect on August 14, 1990, until the effective date of a determination by the Secretary to convert those occupations to “covered positions” and pay them pursuant to section 7451 of such title, as redesignated by section 401(c).

(b) CHIEF MEDICAL DIRECTOR AUTHORITY.—Section 4141(d) is amended—

(1) in paragraph (1)(B), by inserting “or the Chief Medical Director, with respect to covered Regional and Central Office employees in that grade,” before “determines”;

(2) in paragraph (3)—

(A) by redesignating subparagraph (C) as subparagraph (D) and by inserting “or Chief Medical Director” in that subparagraph after “facility”; and

(B) by inserting after subparagraph (B) the following:

Regulations.

“(C) The Chief Medical Director shall prescribe regulations providing for the adjustment of the rates of basic pay for Regional and Central Office employees in covered positions in order to assure that those rates are sufficient and competitive.”; and

(3) in paragraph (4), by inserting “, or the Chief Medical Director with respect to Regional and Central Office employees,” in the first sentence after “facility” the first place it appears.

(c) INCLUSION OF CERTAIN TITLE 5 EMPLOYEES.—Section 4141(a)(3) is amended by inserting “or chapter 53 of title 5” before the period at the end.

(d) TECHNICAL AMENDMENT.—Section 4142(a)(3) is amended by striking out “appointed” and inserting in lieu thereof “paid”.

38 USC 4141
note.

(e) EFFECTIVE DATE.—Section 104(a)(2) of Public Law 101-366 is amended by inserting “the first day of the first pay period beginning after” before “April 1, 1991”.

SEC. 302. EXTENSION OF ANNUAL REPORT ON FURNISHING NONSERVICE-CONNECTED HEALTH CARE.

Section 19011(e)(1) of the Veterans' Health Care Amendments of 1986 (38 U.S.C. 610 note) is amended by striking out “each of” and all that follows through “1989” and inserting in lieu thereof “each fiscal year through fiscal year 1991”.

SEC. 303. ADMINISTRATIVE REORGANIZATION AUTHORITY.

Section 210(b)(2) is amended—

(1) in subparagraph (A), by striking out the second and third sentences and inserting in lieu thereof the following: “No action to carry out such reorganization may be taken after the submission of such report until the end of a 90-day period of continuous

session of Congress following the date of the submission of the report. For purposes of the preceding sentence, continuity of a session of Congress is broken only by an adjournment sine die, and there shall be excluded from the computation of such 90-day period any day during which either House of Congress is not in session during an adjournment of more than three days to a day certain.”;

(2) by striking out subparagraph (B) and inserting in lieu thereof the following:

“(B) An administrative reorganization described in this subparagraph is an administrative reorganization of a covered field office or facility that involves a reduction during any fiscal year in the number of full-time equivalent employees with permanent duty stations at such office or facility—

“(i) by 15 percent or more; or

“(ii) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty stations at such office or facility during the preceding fiscal year, is 25 percent or more.”;

(3) in subparagraph (C)—

(A) by inserting “administrative” before “reorganization” the first place it appears;

(B) by striking out “the reorganization” after “applies to” and inserting in lieu thereof “an administrative reorganization”;

(C) by striking out “more than 25 but less than 100 employees” and inserting in lieu thereof “30 or more employees”; and

(D) by striking out “in such unit—” and all that follows and inserting in lieu thereof “in such unit by 50 percent or more.”; and

(4) in subparagraph (D)—

(A) by adding at the end of clause (i) the following new sentence: “Such term does not include a consolidation or redistribution of functions at a covered field office or facility, or between components of the Veterans Benefits Administration and the Veterans Health Administration at a Department medical and regional office center, if after the consolidation or redistribution the same number of full-time equivalent employees continues to perform the affected functions at that field office, facility, or center.”;

(B) by striking out clause (ii); and

(C) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

SEC. 304. TECHNICAL CORRECTION TO LIMITATION ON PAYMENT OF PENSION TO VETERANS IN NURSING HOMES.

(a) **EXCLUSION OF STATE HOMES.**—Section 3203(f)(1)(B) is amended by inserting before the period at the end the following: “, other than a facility that is a State home with respect to which the Secretary makes per diem payments for nursing home care pursuant to section 641(a) of this title”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply as if included in the amendment made by section 8003(a) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-874).

38 USC 5503
note.

SEC. 305. TECHNICAL AMENDMENTS.

(a) **SECTION 3202.**—Section 3202(d) is amended by striking out “an inmate” and inserting in lieu thereof “a patient”.

(b) **SUBCHAPTER HEADING.**—(1) The heading of subchapter II of chapter 85 is amended by striking out “INMATE” and inserting in lieu thereof “PATIENT”.

(2) The item relating to such subchapter heading in the table of sections at the beginning of such chapter is amended by striking out “INMATE” and inserting in lieu thereof “PATIENT”.

**TITLE IV—REORGANIZATION AND REDESIGNATION OF
PARTS IV, V, AND VI OF TITLE 38**

SEC. 401. FURTHER REVISION AND REORGANIZATION OF CHAPTER 73.

(a) **IN GENERAL.**—Chapter 73 is amended as follows:

(1) The heading of such chapter is amended to read as follows:

**“CHAPTER 73—VETERANS HEALTH ADMINISTRATION—
ORGANIZATION AND FUNCTIONS”.**

(2) Such chapter is amended—

(A) by striking out subchapter V; and

(B) by redesignating subchapter VI as subchapter IV.

(3) Such chapter is further amended by striking out the table of sections and subchapters I and II and inserting in lieu thereof the following:

“SUBCHAPTER I—ORGANIZATION

“Sec.

“7301. Functions of Veterans Health Administration: in general.

“7302. Functions of Veterans Health Administration: health-care personnel education and training programs.

“7303. Functions of Veterans Health Administration: research programs.

“7304. Regulations.

“7305. Divisions of Veterans Health Administration.

“7306. Office of the Chief Medical Director.

“SUBCHAPTER II—GENERAL AUTHORITY AND ADMINISTRATION

“7311. Quality assurance.

“7312. Special medical advisory group.

“7313. Advisory committees: affiliated institutions.

“7314. Geriatric research, education, and clinical centers.

“7315. Geriatrics and Gerontology Advisory Committee.

“7316. Malpractice and negligence suits: defense by United States.

“7317. Hazardous research projects: indemnification of contractors.

“SUBCHAPTER III—PATIENT RIGHTS

“7331. Informed consent.

“7332. Confidentiality of certain medical records.

“7333. Nondiscrimination against alcohol and drug abusers and persons infected with human immunodeficiency virus.

“7334. Regulations.

“SUBCHAPTER IV—RESEARCH CORPORATIONS

“7361. Authority to establish; status.

“7362. Purpose of corporations.

“7363. Board of directors; executive director.

“7364. General powers.

“7365. Applicable State law.

“7366. Accountability and oversight.

“7367. Report to Congress.

“7368. Expiration of authority.

38 USC 4151,
4152.
38 USC prec.
4161.
38 USC
4101-4124.

"SUBCHAPTER I—ORGANIZATION**"§ 7301. Functions of Veterans Health Administration: in general**

"(a) There is in the Department of Veterans Affairs a Veterans Health Administration. The Chief Medical Director is the head of the Administration.

"(b) The primary function of the Administration is to provide a complete medical and hospital service for the medical care and treatment of veterans, as provided in this title and in regulations prescribed by the Secretary pursuant to this title.

"§ 7302. Functions of Veterans Health Administration: health-care personnel education and training programs

"(a) In order to carry out more effectively the primary function of the Veterans Health Administration and in order to assist in providing an adequate supply of health personnel to the Nation, the Secretary—

"(1) to the extent feasible without interfering with the medical care and treatment of veterans, shall develop and carry out a program of education and training of health personnel; and

"(2) shall carry out a major program for the recruitment, training, and employment of veterans with medical military occupation specialties as—

"(A) physician assistants;

"(B) expanded-function dental auxiliaries; and

"(C) other medical technicians.

"(b) In carrying out subsection (a)(1), the Secretary shall include in the program of education and training under that subsection the developing and evaluating of new health careers, interdisciplinary approaches, and career advancement opportunities.

"(c) In carrying out subsection (a)(2), the Secretary shall include in the program of recruitment, training, and employment under that subsection measures to advise all qualified veterans with military occupation specialties referred to in that subsection, and all members of the armed forces about to be discharged or released from active duty who have such military occupation specialties, of employment opportunities with the Administration.

"(d) The Secretary shall carry out subsection (a) in cooperation with the following institutions and organizations:

"(1) Schools of medicine, osteopathy, dentistry, nursing, pharmacy, optometry, podiatry, public health, or allied health professions.

"(2) Other institutions of higher learning.

"(3) Medical centers.

"(4) Academic health centers.

"(5) Hospitals.

"(6) Such other public or nonprofit agencies, institutions, or organizations as the Secretary considers appropriate.

"§ 7303. Functions of Veterans Health Administration: research programs

Diseases.

Handicapped.

"(a)(1) In order to carry out more effectively the primary function of the Administration and in order to contribute to the Nation's knowledge about disease and disability, the Secretary shall carry

out a program of medical research in connection with the provision of medical care and treatment to veterans.

"(2) Such program of medical research shall include biomedical research, mental illness research, prosthetic and other rehabilitative research, and health-care-services research.

"(3) Such program shall stress—

"(A) research into spinal-cord injuries and other diseases that lead to paralysis of the lower extremities; and

"(B) research into injuries and illnesses particularly related to service.

"(4) In carrying out such research program, the Secretary shall act in cooperation with the entities described in section 7302(d) of this title.

"(b) Prosthetic research shall include research and testing in the field of prosthetic, orthotic, and orthopedic appliances and sensory devices. In order that the unique investigative material and research data in the possession of the Government may result in the improvement of such appliances and devices for all disabled persons, the Secretary (through the Chief Medical Director) shall make the results of such research available to any person, and shall consult and cooperate with the Secretary of Health and Human Services and the Secretary of Education, in connection with programs carried out under section 204(b)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 762(b)(2)) (relating to the establishment and support of Rehabilitation Engineering Research Centers).

"(c) Funds appropriated to carry out this section shall remain available until expended.

"§ 7304. Regulations

"(a) Unless specifically otherwise provided, the Chief Medical Director shall prescribe all regulations necessary to the administration of the Veterans Health Administration, including regulations relating to—

"(1) travel, transportation of household goods and effects, and deductions from pay for quarters and subsistence; and

"(2) the custody, use, and preservation of the records, papers, and property of the Administration.

"(b) Regulations prescribed by the Chief Medical Director are subject to the approval of the Secretary.

"§ 7305. Divisions of Veterans Health Administration

"The Veterans Health Administration shall include the following:

"(1) The Office of the Chief Medical Director.

"(2) A Medical Service.

"(3) A Dental Service.

"(4) A Podiatric Service.

"(5) An Optometric Service.

"(6) A Nursing Service.

"(7) Such other professional and auxiliary services as the Secretary may find to be necessary to carry out the functions of the Administration.

"§ 7306. Office of the Chief Medical Director

"(a) The Office of the Chief Medical Director shall consist of the following:

Public
information.

"(1) The Deputy Chief Medical Director, who shall be the principal assistant of the Chief Medical Director and who shall be a qualified doctor of medicine.

"(2) The Associate Deputy Chief Medical Director, who shall be an assistant to the Chief Medical Director and the Deputy Chief Medical Director and who shall be a qualified doctor of medicine.

"(3) Not to exceed eight Assistant Chief Medical Directors.

"(4) Such Medical Directors as may be appointed to suit the needs of the Department, who shall be either a qualified doctor of medicine or a qualified doctor of dental surgery or dental medicine.

"(5) A Director of Nursing Service, who shall be a qualified registered nurse and who shall be responsible to the Chief Medical Director for the operation of the Nursing Service.

"(6) A Director of Pharmacy Service, a Director of Dietetic Service, a Director of Podiatric Service, and a Director of Optometric Service, who shall be responsible to the Chief Medical Director for the operation of their respective Services.

"(7) Such other personnel as may be authorized by this chapter.

"(b) Of the Assistant Chief Medical Directors appointed under subsection (a)(3)—

"(1) not more than two may be persons qualified in the administration of health services who are not doctors of medicine, dental surgery, or dental medicines;

"(2) one shall be a qualified doctor of dental surgery or dental medicine who shall be directly responsible to the Chief Medical Director for the operation of the Dental Service; and

"(3) one shall be a qualified physician trained in, or having suitable extensive experience in, geriatrics who shall be responsible to the Chief Medical Director for evaluating all research, educational, and clinical health-care programs carried out in the Administration in the field of geriatrics and who shall serve as the principal advisor to the Chief Medical Director with respect to such programs.

"(c) Appointments under subsection (a) shall be made by the Secretary. In the case of appointments under paragraphs (1), (2), (3), and (4) of that subsection, such appointments shall be made upon the recommendation of the Chief Medical Director.

"(d) Except as provided in subsection (e)—

"(1) any appointment under this section shall be for a period of four years, with reappointment permissible for successive like periods,

"(2) any such appointment or reappointment may be extended by the Secretary for a period not in excess of three years, and

"(3) any person so appointed or reappointed or whose appointment or reappointment is extended shall be subject to removal by the Secretary for cause.

"(e)(1) The Secretary may designate a member of the Chaplain Service of the Department as Director, Chaplain Service, for a period of two years, subject to removal by the Secretary for cause. Redesignation under this subsection may be made for successive like periods or for any period not exceeding two years.

"(2) A person designated as Director, Chaplain Service, shall at the end of such person's period of service as Director revert to the position, grade, and status which such person held immediately

before being designated Director, Chaplain Service, and all service as Director, Chaplain Service, shall be creditable as service in the former position.

“SUBCHAPTER II—GENERAL AUTHORITY AND ADMINISTRATION

“§ 7311. Quality assurance

“(a) The Secretary shall—

“(1) establish and conduct a comprehensive program to monitor and evaluate the quality of health care furnished by the Veterans Health Administration (hereinafter in this section referred to as the ‘quality-assurance program’); and

“(2) delineate the responsibilities of the Chief Medical Director with respect to the quality-assurance program, including the duties prescribed in this section.

“(b)(1) As part of the quality-assurance program, the Chief Medical Director shall periodically evaluate—

“(A) whether there are significant deviations in mortality and morbidity rates for surgical procedures performed by the Administration from prevailing national mortality and morbidity standards for similar procedures; and

“(B) if there are such deviations, whether they indicate deficiencies in the quality of health care provided by the Administration.

“(2) The evaluation under paragraph (1)(A) shall be made using the information compiled under subsection (c)(1). The evaluation under paragraph (1)(B) shall be made taking into account the factors described in subsection (c)(2)(B).

“(3) If, based upon an evaluation under paragraph (1)(A), the Chief Medical Director determines that there is a deviation referred to in that paragraph, the Chief Medical Director shall explain the deviation in the report submitted under subsection (f).

“(c)(1) The Chief Medical Director shall—

“(A) determine the prevailing national mortality and morbidity standards for each type of surgical procedure performed by the Administration; and

“(B) collect data and other information on mortality and morbidity rates in the Administration for each type of surgical procedure performed by the Administration and (with respect to each such procedure) compile the data and other information so collected—

“(i) for each medical facility of the Department, in the case of cardiac surgery, heart transplant, and renal transplant programs; and

“(ii) in the aggregate, for each other type of surgical procedure.

“(2) The Chief Medical Director shall—

“(A) compare the mortality and morbidity rates compiled under paragraph (1)(B) with the national mortality and morbidity standards determined under paragraph (1)(A); and

“(B) analyze any deviation between such rates and such standards in terms of the following:

“(i) The characteristics of the respective patient populations.

Records.

“(ii) The level of risk for the procedure involved, based on—

“(I) patient age;

“(II) the type and severity of the disease;

“(III) the effect of any complicating diseases; and

“(IV) the degree of difficulty of the procedure.

“(iii) Any other factor that the Chief Medical Director considers appropriate.

“(d) Based on the information compiled and the comparisons, analyses, evaluations, and explanations made under subsections (b) and (c), the Chief Medical Director, in the report under subsection (f), shall make such recommendations with respect to quality assurance as the Chief Medical Director considers appropriate.

“(e)(1) The Secretary shall allocate sufficient resources (including sufficient personnel with the necessary skills and qualifications) to enable the Administration to carry out its responsibilities under this section.

“(2) The Inspector General of the Department shall allocate sufficient resources (including sufficient personnel with the necessary skills and qualifications) to enable the Inspector General to monitor the quality-assurance program.

“(f)(1) Not later than February 1, 1991, the Chief Medical Director shall submit to the Secretary a report on the experience through the end of the preceding fiscal year under the quality-assurance program carried out under this section. Reports.

“(2) Such report shall include—

“(A) the data and other information compiled and the comparisons, analyses, and evaluations made under subsections (b) and (c) with respect to the period covered by the report; and

“(B) recommendations under subsection (d).

“(g)(1) Not later than 60 days after receiving such report, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comment concerning the report that the Secretary considers appropriate.

“(2) A report submitted under paragraph (1) shall not be considered to be a record or document as described in section 5705(a) of this title.

“§ 7312. Special medical advisory group

“(a) The Secretary shall establish an advisory committee to be known as the special medical advisory group. The advisory group shall advise the Secretary, through the Chief Medical Director, and the Chief Medical Director directly, relative to the care and treatment of disabled veterans and other matters pertinent to the Administration.

“(b) Members of the special medical advisory group shall be appointed by the Secretary upon the recommendation of the Chief Medical Director. The special medical advisory group shall be composed of—

“(1) members of the medical, dental, podiatric, optometric, and allied scientific professions;

“(2) other individuals considered by the Chief Medical Director to have experience pertinent to the mission of the Administration; and

“(3) a disabled veteran.

Reports.

Colleges and
universities.
Health facilities.
Nonprofit
organizations.

"(c) The special medical advisory group shall meet on a regular basis as prescribed by the Secretary. The number, terms of service, pay, and allowances of members of the advisory group shall be prescribed in accordance with existing law and regulations.

"(d) Not later than February 1 of each year, the special medical advisory group shall submit to the Secretary and the Congress a report on the advisory groups activities during the preceding fiscal year.

"§ 7313. Advisory committees: affiliated institutions

"(a) In each case where the Secretary has a contract or agreement with any school, institution of higher learning, medical center, hospital, or other public or nonprofit agency, institution, or organization for the training or education of health personnel, the Secretary shall establish an advisory committee to advise the Secretary and the Chief Medical Director with respect to policy matters arising in connection with, and the operation of, the program with respect to which it was appointed. Such a committee may be a dean's committee, a medical advisory committee, or the like.

"(b) Any such advisory committee may be established on an institution-wide, multi-disciplinary basis or on a regional basis whenever establishment on such a basis is found to be feasible.

"(c) Members of each such advisory committee shall be appointed by the Secretary and shall include personnel of the Department (including appropriate representation from the full-time staff) and of the entity with which the Secretary has entered into the contract or agreement. The number of members, and terms of members, of each advisory committee shall be prescribed by the Secretary.

"(d) The Secretary shall require that the Chief of the Nursing Service (or the designee of the Chief) at each Department health-care facility be included in the membership of each policymaking committee at that facility. Such committees include: (1) committees relating to matters such as budget, education, position management, clinical executive issues, planning, and resource allocation, and (2) the dean's committee or other advisory committee established under subsection (a).

"§ 7314. Geriatric research, education, and clinical centers

"(a) The Secretary, upon the recommendation of the Chief Medical Director and pursuant to the provisions of this section, shall designate not more than 25 Department health-care facilities as the locations for centers of geriatric research, education, and clinical activities and (subject to the appropriation of sufficient funds for such purpose) shall establish and operate such centers at such locations in accordance with this section.

"(b) In designating locations for centers under subsection (a), the Secretary, upon the recommendation of the Chief Medical Director, shall—

"(1) designate each Department health-care facility that as of August 26, 1980, was operating a geriatric research, education, and clinical center unless (on the recommendation of the Chief Medical Director) the Secretary determines that such facility does not meet the requirements of subsection (c) or has not demonstrated effectiveness in carrying out the established purposes of such center or the purposes of title III of the Veterans' Administration Health-Care Amendments of 1980 (Public Law

96-330; 94 Stat. 1048) or the potential to carry out such purposes effectively in the reasonably foreseeable future; and

“(2) assure appropriate geographic distribution of such facilities.

“(c) The Secretary may not designate a health-care facility as a location for a center under subsection (a) unless the Secretary (upon the recommendation of the Chief Medical Director) determines that the facility has (or may reasonably be anticipated to develop) each of the following:

“(1) An arrangement with an accredited medical school which provides education and training in geriatrics and with which such facility is affiliated under which residents receive education and training in geriatrics through regular rotation through such center and through nursing home, extended care, or domiciliary units of such facility so as to provide such residents with training in the diagnosis and treatment of chronic diseases of older individuals, including cardiopulmonary conditions, senile dementia, and neurological disorders.

“(2) An arrangement under which nursing or allied health personnel receive training and education in geriatrics through regular rotation through nursing home, extended care, or domiciliary units of such facility.

“(3) The ability to attract the participation of scientists who are capable of ingenuity and creativity in health-care research efforts.

“(4) A policymaking advisory committee composed of appropriate health-care and research representatives of the facility and of the affiliated school or schools to advise the directors of such facility and such center on policy matters pertaining to the activities of such center during the period of the operation of such center.

“(5) The capability to conduct effectively evaluations of the activities of such center.

“(d) Before providing funds for the operation of any such center at a health-care facility other than a health-care facility designated under subsection (b)(1), the Secretary shall assure that the center at each facility designated under such subsection is receiving adequate funding to enable such center to function effectively in the areas of geriatric research, education, and clinical activities.

“(e) There are authorized to be appropriated such sums as may be necessary for the support of the research and education activities of the centers established pursuant to subsection (a). The Chief Medical Director shall allocate to such centers from other funds appropriated generally for the Department medical care account and medical and prosthetics research account, as appropriate, such amounts as the Chief Medical Director determines appropriate.

“(f) Activities of clinical and scientific investigation at each center established under subsection (a) shall be eligible to compete for the award of funding from funds appropriated for the Department medical and prosthetics research account and shall receive priority in the award of funding from such account insofar as funds are awarded to projects for research in geriatrics and gerontology.

“§ 7315. Geriatrics and Gerontology Advisory Committee

“(a) The Secretary shall establish in the Administration a Geriatrics and Gerontology Advisory Committee (hereinafter in this section referred to as the ‘Committee’). The membership of the

Appropriation
authorization.

Committee shall be appointed by the Secretary, upon the recommendation of the Chief Medical Director, and shall include individuals who are not employees of the Federal Government and who have demonstrated interest and expertise in research, education, and clinical activities related to aging and at least one representative of a national veterans service organization. The Secretary, upon the recommendation of the Chief Medical Director, shall invite representatives of other appropriate departments and agencies of the United States to participate in the activities of the Committee and shall provide the Committee with such staff and other support as may be necessary for the Committee to carry out effectively its functions under this section.

“(b) The Committee shall—

“(1) advise the Chief Medical Director on all matters pertaining to geriatrics and gerontology;

“(2) assess, through an evaluation process (including a site visit conducted not later than three years after the date of the establishment of each new center and not later than two years after the date of the last evaluation of those centers in operation on August 26, 1980), the ability of each center established under section 7314 of this title to achieve its established purposes and the purposes of title III of the Veterans’ Administration Health-Care Amendments of 1980 (Public Law 96-330; 94 Stat. 1048);

“(3) assess the capability of the Department to provide high quality geriatric services, extended services, and other health-care services to eligible older veterans, taking into consideration the likely demand for such services from such veterans;

“(4) assess the current and projected needs of eligible older veterans for geriatric services, extended-care services, and other health-care services from the Department and its activities and plans designed to meet such needs; and

“(5) perform such additional functions as the Secretary or Chief Medical Director may direct.

Reports.

“(c)(1) The Committee shall submit to the Secretary, through the Chief Medical Director, such reports as the Committee considers appropriate with respect to its findings and conclusions under subsection (b). Such reports shall include the following:

“(A) Descriptions of the operations of the centers of geriatric research, education, and clinical activities established pursuant to section 7314 of this title.

“(B) Assessments of the quality of the operations of such centers.

“(C) An assessment of the extent to which the Department, through the operation of such centers and other health-care facilities and programs, is meeting the needs of eligible older veterans for geriatric services, extended-care services, and other health-care services.

“(D) Assessments of and recommendations for correcting any deficiencies in the operations of such centers.

“(E) Recommendations for such other geriatric services, extended-care services, and other health-care services as may be needed to meet the needs of older veterans.

“(2) Not later than 90 days after receipt of a report submitted under paragraph (1), the Secretary shall transmit the report, together with the Secretary’s comments and recommendations thereon, to the appropriate committees of the Congress.

“§ 7316. Malpractice and negligence suits: defense by United States

“(a)(1) The remedy—

“(A) against the United States provided by sections 1346(b) and 2672 of title 28, or

“(B) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of title 28,

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a medical care employee of the Administration in furnishing medical care or treatment while in the exercise of that employee's duties in or for the Administration shall be exclusive of any other civil action or proceeding by reason of the same subject matter against the medical care employee (or employee's estate) whose act or omission gave rise to such claim.

“(2) For purposes of paragraph (1), the term ‘medical care employee of the Administration’ means a physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded-function dental auxiliary, pharmacist, or paramedical (such as medical and dental technicians, nursing assistants, and therapists), or other supporting personnel.

“(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) (or such person's estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person's immediate superior or to whomever was designated by the Secretary to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

“(c) Upon a certification by the Attorney General that the defendant was acting in the scope of such person's employment in or for the Administration at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. After removal the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the employee whose act or omission gave rise to the suit was not acting within the scope of such person's office or employment, the case shall be remanded to the State court.

“(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect.

“(e) The Secretary may, to the extent the Secretary considers appropriate, hold harmless or provide liability insurance for any person to whom the immunity provisions of this section apply (as

described in subsection (a)), for damage for personal injury or death, or for property damage, negligently caused by such person while furnishing medical care or treatment (including the conduct of clinical studies or investigations) in the exercise of such person's duties in or for the Administration, if such person is assigned to a foreign country, detailed to State or political division thereof, or is acting under any other circumstances which would preclude the remedies of an injured third person against the United States, provided by sections 1346(b) and 2672 of title 28, for such damage or injury.

"(f) The exception provided in section 2680(h) of title 28 shall not apply to any claim arising out of a negligent or wrongful act or omission of any person described in subsection (a) in furnishing medical care or treatment (including medical care or treatment furnished in the course of a clinical study or investigation) while in the exercise of such person's duties in or for the Administration.

"§ 7317. Hazardous research projects: indemnification of contractors

"(a)(1) With the approval of the Secretary, any contract or research authorized by section 7303 of this title, the performance of which involves a risk of an unusually hazardous nature, may provide that the United States will indemnify the contractor as provided in paragraph (2), but only to the extent that the liability, loss, or damage concerned arises out of the direct performance of the contract and to the extent not covered by the financial protection required under subsection (e).

"(2) Indemnity under paragraph (1) is indemnity against either or both of the following:

"(A) Liability (including reasonable expenses of litigation or settlement) to third persons, except liability under State or Federal workers' injury compensation laws to employees of the contractor employed at the site of and in connection with the contract for which indemnification is granted, for death, bodily injury, or loss of or damage to property, from a risk that the contract defines as unusually hazardous.

"(B) Loss of or damage to property of the contractor from a risk that the contract defines as unusually hazardous.

"(b) A contract that provides for indemnification in accordance with subsection (a) must also provide for—

"(1) notice to the United States of any claim or suit against the contractor for death, bodily injury, or loss of or damage to property; and

"(2) control of or assistance in the defense by the United States, at its election, of any such suit or claim for which indemnification is provided hereunder.

"(c) A payment may not be made under subsection (a) unless the Secretary certifies that the amount is just and reasonable.

"(d) Upon approval by the Secretary, payments under subsection (a) may be made from—

"(1) funds obligated for the performance of the contract concerned;

"(2) funds available for research or development or both, and not otherwise obligated; or

"(3) funds appropriated for those payments.

"(e) Each contractor which is a party to an indemnification agreement under subsection (a) shall have and maintain financial protec-

tion of such type and in such amounts as the Secretary shall require to cover liability to third persons and loss of or damage to the contractor's property. The amount of financial protection required shall be the maximum amount of insurance available from private sources, except that the Secretary may establish a lesser amount, taking into consideration the cost and terms of private insurance. Such financial protection may include private insurance, private contractual indemnities, self-insurance, other proof of financial responsibility, or a combination of such measures.

"(f) In administering the provisions of this section, the Secretary may use the facilities and services of private insurance organizations and may contract to pay a reasonable compensation therefor. Any contract made under the provisions of this section may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5), upon a showing by the Secretary that advertising is not reasonably practicable, and advance payments may be made under any such contract.

"(g) The authority to indemnify contractors under this section does not create any rights in third persons which would not otherwise exist by law.

"(h) Funds appropriated to carry out this section shall remain available until expended.

"(i) In this section, the term 'contractor' includes subcontractors of any tier under a contract containing an indemnification provision pursuant to subsection (a)."

(4) Such chapter is further amended—

(A) by redesignating sections 4131, 4132, 4133, and 4134 as sections 7331, 7332, 7333, and 7334, respectively; and

(B) by redesignating sections 4161, 4162, 4163, 4164, 4165, 4166, 4167, and 4168 as sections 7361, 7362, 7363, 7364, 7365, 7366, 7367, and 7368, respectively.

(b) ENACTMENT OF OTHER PROVISIONS OF OLD CHAPTER 73 IN NEW CHAPTER 74.—Chapter 74, as added by section 102 and amended by section 202, is amended as follows:

(1) The table of sections (as added by section 102 and amended by section 203(b)) is amended—

(A) by inserting at the beginning the following:

"SUBCHAPTER I—APPOINTMENTS

"Sec.

"7401. Appointments in Veterans Health Administration.

"7402. Qualifications of appointees.

"7403. Period of appointments; promotions.

"7404. Grades and pay scales.

"7405. Temporary full-time appointments, part-time appointments, and without-compensation appointments.

"7406. Residencies and internships.

"7407. Administrative provisions for section 7405 and 7406 appointments.

"7408. Appointment of additional employees.

"7409. Contracts for scarce medical specialist services.";

(B) by inserting after the item relating to section 7423 (as added by section 203(b)(1)) the following:

"7424. Travel expenses of certain employees.

"7425. Employees: laws not applicable.

"7426. Retirement rights.";

(C) by inserting after the item relating to section 7440 (as added by section 102) the following:

"SUBCHAPTER IV—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

- "7451. Nurses and other health-care personnel: competitive pay.
- "7452. Nurses and other health-care personnel: administration of pay.
- "7453. Nurses: additional pay.
- "7454. Physician assistants and other health care professionals: additional pay.
- "7455. Increases in rates of basic pay.
- "7456. Nurses: special rules for weekend duty.
- "7457. On-call pay.
- "7458. Recruitment and retention bonus pay."; and

(D) by adding at the end the following:

"SUBCHAPTER VI—REGIONAL MEDICAL EDUCATION CENTERS

- "7471. Designation of Regional Medical Education Centers.
- "7472. Supervision and staffing of Centers.
- "7473. Personnel eligible for training.
- "7474. Consultation."

(2) Such chapter is further amended by inserting before subchapter II (as added by section 202) the following:

"SUBCHAPTER I—APPOINTMENTS**"§ 7401. Appointments in Veterans Health Administration**

"There may be appointed by the Secretary such personnel as the Secretary may find necessary for the medical care of veterans (in addition to those in the Office of the Chief Medical Director appointed under section 7306 of this title), as follows:

"(1) Physicians, dentists, podiatrists, optometrists, registered nurses, physician assistants, and expanded-function dental auxiliaries.

"(2) Psychologists (other than those described in paragraph (3)), dietitians, and other scientific and professional personnel, such as microbiologists, chemists, biostatisticians, and medical and dental technologists.

"(3) Clinical or counseling psychologists who hold diplomas as diplomates in psychology from an accrediting authority approved by the Secretary, certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists, and occupational therapists.

"§ 7402. Qualifications of appointees

"(a) To be eligible for appointment to the positions in the Administration covered by subsection (b), a person must have the applicable qualifications set forth in that subsection.

"(b)(1) **PHYSICIAN.**—To be eligible to be appointed to a physician position, a person must—

"(A) hold the degree of doctor of medicine or of doctor of osteopathy from a college or university approved by the Secretary,

"(B) have completed an internship satisfactory to the Secretary, and

"(C) be licensed to practice medicine, surgery, or osteopathy in a State.

"(2) **DENTIST.**—To be eligible to be appointed to a dentist position, a person must—

"(A) hold the degree of doctor of dental surgery or dental medicine from a college or university approved by the Secretary, and

"(B) be licensed to practice dentistry in a State.

"(3) NURSE.—To be eligible to be appointed to a nurse position, a person must—

"(A) have successfully completed a full course of nursing in a recognized school of nursing, approved by the Secretary, and

"(B) be registered as a graduate nurse in a State.

"(4) DIRECTOR OF A HOSPITAL, DOMICILIARY, CENTER, OR OUTPATIENT CLINIC.—To be eligible to be appointed to a director position, a person must have such business and administrative experience and qualifications as the Secretary shall prescribe.

"(5) PODIATRIST.—To be eligible to be appointed to a podiatrist position, a person must—

"(A) hold the degree of doctor of podiatric medicine, or its equivalent, from a school of podiatric medicine approved by the Secretary, and

"(B) be licensed to practice podiatry in a State.

"(6) OPTOMETRIST.—To be eligible to be appointed to an optometrist position, a person must—

"(A) hold the degree of doctor of optometry, or its equivalent, from a school of optometry approved by the Secretary, and

"(B) be licensed to practice optometry in a State.

"(7) PHARMACIST.—To be eligible to be appointed to a pharmacist position, a person must—

"(A) hold the degree of bachelor of science in pharmacy, or its equivalent, from a school of pharmacy, approved by the Secretary, and

"(B) be registered as a pharmacist in a State.

"(8) PSYCHOLOGIST.—To be eligible to be appointed to a psychologist position, a person must—

"(A) hold a doctoral degree in psychology from a college or university approved by the Secretary,

"(B) have completed study for such degree in a specialty area of psychology and an internship which are satisfactory to the Secretary, and

"(C) be licensed or certified as a psychologist in a State, except that the Secretary may waive the requirement of licensure or certification for an individual psychologist for a period not to exceed two years on the condition that that psychologist provide patient care only under the direct supervision of a psychologist who is so licensed or certified.

"(9) OTHER HEALTH-CARE POSITIONS.—To be appointed as a physician assistant, expanded-function dental auxiliary, certified or registered respiratory therapist, licensed physical therapist, licensed practical or vocational nurse, occupational therapist, dietitian, microbiologist, chemist, biostatistician, medical technologist, dental technologist, or other position, a person must have such medical, dental, scientific, or technical qualifications as the Secretary shall prescribe.

"(c) Except as provided in section 7407(a) of this title, a person may not be appointed in the Administration to a position listed in section 7401(1) of this title unless the person is a citizen of the United States.

"(d) A person may not be appointed under section 7401(1) of this title to serve in the Administration in any direct patient-care capac-

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ity unless the Chief Medical Director determines that the person possesses such basic proficiency in spoken and written English as will permit such degree of communication with patients and other health-care personnel as will enable the person to carry out the person's health-care responsibilities satisfactorily. Any determination by the Chief Medical Director under this subsection shall be in accordance with regulations which the Secretary shall prescribe.

"(e) A person may not serve as Chief of Staff of a Department health-care facility if the person is not serving on a full-time basis.

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"§ 7403. Period of appointments; promotions

"(a)(1) Appointments under this chapter of health-care professionals to whom this section applies may be made only after qualifications have been satisfactorily established in accordance with regulations prescribed by the Secretary, without regard to civil-service requirements.

"(2) This section applies to the following persons appointed under this chapter:

"(A) Physicians.

"(B) Dentists.

"(C) Podiatrists.

"(D) Optometrists.

"(E) Nurses.

"(F) Physician assistants.

"(G) Expanded-function dental auxiliaries.

"(b)(1) Appointments described in subsection (a) shall be for a probationary period of two years.

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"(2) The record of each person serving under such an appointment in the Medical, Dental, and Nursing Services shall be reviewed from time to time by a board, appointed in accordance with regulations of the Secretary. If such a board finds that such person is not fully qualified and satisfactory, such person shall be separated from the service.

"(c) Promotions of persons to whom this section applies shall be made only after examination given in accordance with regulations prescribed by the Secretary. Advancement within grade may be made in increments of the minimum rate of basic pay of the grade in accordance with regulations prescribed by the Secretary.

"(d) In determining eligibility for reinstatement in the Federal civil service of persons appointed to positions in the Administration under this chapter who at the time of appointment have a civil-service status, and whose employment in the Administration is terminated, the period of service performed in the Administration shall be included in computing the period of service under applicable civil-service rules and regulations.

"(e) In accordance with regulations prescribed by the Secretary, the grade and annual rate of basic pay of a person to whom this section applies whose level of assignment is changed from a level of assignment in which the grade level is based on both the nature of the assignment and personal qualifications may be adjusted to the grade and annual rate of basic pay otherwise appropriate.

"(f)(1) Upon the recommendation of the Chief Medical Director, the Secretary may—

"(A) use the authority in subsection (a) to establish the qualifications for and (subject to paragraph (2)) to appoint individuals to positions listed in section 7401(3) of this title; and

“(B) use the authority provided in subsection (c) for the promotion and advancement of Department employees serving in such positions.

“(2) In using such authority to appoint individuals to such positions, the Secretary shall apply the principles of preference for the hiring of veterans and other persons established in subchapter I of chapter 33 of title 5.

“(3) Notwithstanding any other provision of this title or other law, all matters relating to adverse actions, disciplinary actions, and grievance procedures involving individuals appointed to such positions (including similar actions and procedures involving an employee in a probationary status) shall be resolved under the provisions of title 5 as though such individuals had been appointed under that title.

“(g)(1) The Secretary may appoint in the competitive civil service without regard to the provisions of subchapter I of chapter 33 of title 5 (other than sections 3303 and 3328 of such title) an individual who—

“(A) has a recognized degree or certificate from an accredited institution in a health-care profession or occupation; and

“(B) has successfully completed a clinical education program affiliated with the Department.

“(2) In using the authority provided by this subsection, the Secretary shall apply the principles of preference for the hiring of veterans and other persons established in subchapter I of chapter 33 of title 5.

“§ 7404. Grades and pay scales

“(a) The annual rates or ranges of rates of basic pay for positions provided in section 7306 of this title shall be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law.

“(b)(1) The grades for positions provided for in paragraph (1) of section 7401 of this title shall be as follows. The annual ranges of rates of basic pay for those grades shall be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law:

“PHYSICIAN AND DENTIST SCHEDULE

“Director grade.

“Executive grade.

“Chief grade.

“Senior grade.

“Intermediate grade.

“Full grade.

“Associate grade.

“NURSE SCHEDULE

“Director grade.

“Senior grade.

“Intermediate grade.

“Entry grade.

“CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE

“Chief grade.

"Senior grade.

"Intermediate grade.

"Full grade.

"Associate grade.

"(2) A person may not hold the director grade in the Physician and Dentist Schedule unless the person is serving as a director of a hospital, domiciliary, center, or outpatient clinic (independent). A person may not hold the executive grade in that Schedule unless the person holds the position of chief of staff at a hospital, center, or outpatient clinic (independent), or comparable position.

"(c) Notwithstanding the provisions of section 7425(a) of this title, a person appointed under section 7306 of this title who is not eligible for special pay under subchapter III shall be deemed to be a career appointee for the purposes of sections 4507 and 5384 of title 5.

"(d) Except as provided under subchapter III and in section 7457 of this title, pay may not be paid at a rate in excess of the rate of basic pay for an appropriate level authorized by section 5315 or 5316 of title 5 for positions in the Executive Schedule, as follows:

"(1) Level IV for the Deputy Chief Medical Director.

"(2) Level V for all other positions for which such basic pay is paid under this section.

"§ 7405. Temporary full-time appointments, part-time appointments, and without-compensation appointments

"(a) The Secretary, upon the recommendation of the Chief Medical Director, may employ, without regard to civil service or classification laws, rules, or regulations, personnel as follows:

"(1) On a temporary full-time basis, part-time basis, or without compensation basis, persons in the following positions:

"(A) Positions listed in section 7401(1) of this title.

"(B) Certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists, and occupational therapists.

"(C) Dietitians, social workers, and librarians.

"(D) Other professional, clerical, technical, and unskilled personnel (including interns, residents, trainees, and students in medical support programs).

"(2) On a fee basis, persons in the following positions:

"(A) Positions listed in section 7401(1) of this title.

"(B) Certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists, and occupational therapists.

"(C) Other professional and technical personnel.

"(b) Personnel employed under subsection (a)—

"(1) shall be in addition to personnel described in section 7306, paragraphs (1) and (3) of section 7401, and section 7408 of this title; and

"(2) shall be paid such rates of pay as the Secretary may prescribe.

"(c)(1) Temporary full-time appointments under this section of persons in positions listed in section 7401(1) of this title may be for a period in excess of 90 days only if the Chief Medical Director finds that circumstances render it impracticable to obtain the necessary services through appointments under that section.

"(2) Temporary full-time appointments of persons who have successfully completed a full course of nursing in a recognized school of nursing, approved by the Secretary, or who have successfully

completed a full course of training for any category of personnel described in paragraph (3) of section 7401 of this title in a recognized education or training institution approved by the Secretary, and who are pending registration or licensure in a State, or certification by a national board recognized by the Secretary, shall not exceed two years.

“(3) Temporary full-time appointments of other personnel may not be for a period in excess of one year except as authorized in subsection (f).

“(d) A part-time appointment may not be for a period of more than one year, except for appointments of persons specified in subsection (a)(1)(A) and interns, residents, and other trainees in medical support programs and except as authorized in subsection (f).

“(e) A student who has a temporary appointment under this section and who is pursuing a full course of nursing in a recognized school of nursing approved by the Secretary, or who is pursuing a full course of training for any category of personnel described in paragraph (3) of section 7401 of this title in a recognized education or training institution approved by the Secretary, may be reappointed for a period not to exceed the duration of the student's academic program.

“(f) During any period during which the Secretary is exercising the authority provided in subsections (a) and (f)(1) of section 7403 of this title in connection with the appointment, under paragraph (3) of section 7401 of this title, of personnel in a category of personnel described in such paragraph—

“(1) the Secretary may make temporary full-time appointments of personnel in such category for periods exceeding 90 days if the Chief Medical Director finds that circumstances render it impractical to obtain the necessary services through appointments under paragraph (3) of section 7401 of this title; and

“(2) part-time appointments of personnel in such category may be for periods of more than one year.

“§ 7406. Residencies and internships

“(a)(1) The Secretary may establish residencies and internships. The Secretary may appoint qualified persons to such positions without regard to civil service or classification laws, rules, or regulations.

“(2) For the purposes of this section:

“(A) The term ‘internship’ includes the equivalency of an internship as determined in accordance with regulations which the Secretary shall prescribe.

“(B) The term ‘intern’ means a person serving an internship.

“(b) The Secretary may prescribe the conditions of employment of persons appointed under this section, including necessary training, and the customary amount and terms of pay for such positions during the period of such employment and training. The amount and terms of such pay may be established retroactively based on changes in such customary amount and terms.

“(c)(1) In order to carry out more efficiently the provisions of subsection (a)(1), the Secretary may contract with one or more hospitals, medical schools, or medical installations having hospital facilities and participating with the Department in the training of interns or residents to provide, by the designation of one such

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institution to serve as a central administrative agency, for the central administration—

“(A) of stipend payments;

“(B) provision of fringe benefits; and

“(C) maintenance of records for such interns and residents.

“(2) The Secretary may pay to such designated agency, without regard to any other law or regulation governing the expenditure of Government moneys either in advance or in arrears, an amount to cover the cost for the period such intern or resident serves in a Department hospital of—

“(A) stipends fixed by the Secretary pursuant to paragraph (1);

“(B) hospitalization, medical care, and life insurance and any other employee benefits as are agreed upon by the participating institutions for the period that such intern or resident serves in a Department hospital;

“(C) tax on employers pursuant to chapter 21 of the Internal Revenue Code of 1986, where applicable; and

“(D) an amount to cover a pro rata share of the cost of expense of such central administrative agency.

“(3)(A) Any amounts paid by the Secretary to such central administrative agency to cover the cost of hospitalization, medical care, or life insurance or other employee benefits shall be in lieu of any benefits of like nature to which such intern or resident may be entitled under the provisions of title 5, and the acceptance of stipends and employee benefits from the designated central administrative agency shall constitute a waiver by the recipient of any claim such recipient might have to any payment of stipends or employee benefits to which such recipient may be entitled under this title or title 5.

“(B) Notwithstanding subparagraph (A), any period of service of any such intern or resident in a Department hospital shall be deemed creditable service for the purposes of section 8332 of title 5.

“(4) The agreement with such central administrative agency may further provide that the designated central administrative agency shall—

“(A) make all appropriate deductions from the stipend of each intern and resident for local, State, and Federal taxes;

“(B) maintain all records pertinent to such deductions and make proper deposits of such deductions; and

“(C) maintain all records pertinent to the leave accrued by such intern and resident for the period during which such recipient serves in a participating hospital, including a Department hospital.

“(5) Leave described in paragraph (4)(C) may be pooled, and the intern or resident may be afforded leave by the hospital in which such person is serving at the time the leave is to be used to the extent of such person's total accumulated leave, whether or not earned at the hospital in which such person is serving at the time the leave is to be afforded.

“§ 7407. Administrative provisions for section 7405 and 7406 appointments

“(a) When the Chief Medical Director determines that it is not possible to recruit qualified citizens for the necessary services, appointments under sections 7405 and 7406 of this title may be made without regard to the citizenship requirements of section 7402(c) of

this title or of any other law prohibiting the employment of, or payment of compensation to, a person who is not a citizen of the United States.

“(b)(1) Subject to paragraph (2), the Chief Medical Director may waive for the purpose of the appointment of an individual under section 7405 or 7406 of this title the requirements set forth in section 7402(b) of this title—

“(A) that a physician, dentist, psychologist, optometrist, registered nurse, practical or vocational nurse, or physical therapist be licensed or certified, as appropriate;

“(B) that the licensure or certification of such an individual be in a State; and

“(C) that a psychologist have completed an internship.

“(2) The waivers authorized in paragraph (1) may be granted—

“(A) in the case of clauses (A) and (C) of such paragraph, if the individual (i) will be employed to conduct research or serve in an academic position, and (ii) will have no responsibility for furnishing direct patient care services; and

“(B) in the case of clause (B) of such paragraph, if the individual will be employed to serve in a country other than the United States and the individual's licensure or registration is in the country in which the individual is to serve.

“(c) The program of training prescribed by the Secretary in order to qualify a person for the position of full-time physician assistant or expanded-function dental auxiliary shall be considered a full-time institutional program for purposes of chapter 34 of this title. The Secretary may consider training for such a position to be on a less than full-time basis for purposes of such chapter when the combined classroom (and other formal instruction) portion of the program and the on-the-job training portion of the program total less than 30 hours per week.

“(d) A person may not be appointed under section 7405 or 7406 of this title to an occupational category described in section 7401(1) of this title or in section 7406 of this title unless the person meets the requirements established in section 7402(d) of this title and regulations prescribed under that section.

“(e) In accordance with the provisions of section 7425(b) of this title, the provisions of chapter 34 of title 5 pertaining to part-time career employment shall not apply to part-time appointments under sections 7405 and 7406 of this title.

“§ 7408. Appointment of additional employees

“(a) There shall be appointed by the Secretary under civil-service laws, rules, and regulations, such additional employees, other than those provided in section 7306 and paragraphs (1) and (3) of section 7401 of this title and those specified in sections 7405 and 7406 of this title, as may be necessary to carry out the provisions of this chapter.

“(b) The Secretary, after considering an individual's existing pay, higher or unique qualifications, or the special needs of the Department, may appoint the individual to a position in the Administration providing direct patient-care services or services incident to direct patient-services at a rate of pay above the minimum rate of the appropriate grade.

“§ 7409. Contracts for scarce medical specialist services

“(a) The Secretary may enter into contracts with institutions and persons described in subsection (b) to provide scarce medical special-

ist services at Department facilities. Such services may include the services of physicians, dentists, podiatrists, optometrists, nurses, physician assistants, expanded-function dental auxiliaries, technicians, and other medical support personnel.

"(b) Institutions and persons with whom the Secretary may enter into contracts under subsection (a) are the following:

"(1) Schools and colleges of medicine, osteopathy, dentistry, podiatry, optometry, and nursing.

"(2) Clinics.

"(3) Any other group or individual capable of furnishing such scarce medical specialist services."

(3) Subchapter II of such chapter (as added by section 202) is amended—

(A) by adding at the end of section 7423 the following new subsection:

"(e)(1) The Secretary shall establish a leave transfer program for the benefit of health-care professionals in positions listed in section 7401(1) of this title. The Secretary may also establish a leave bank program for the benefit of such health-care professionals.

"(2) To the maximum extent feasible—

"(A) the leave transfer program shall provide the same or similar requirements and conditions as are provided for the program established by the Director of the Office of Personnel Management under subchapter III of chapter 63 of title 5; and

"(B) any leave bank program established pursuant to paragraph (1) shall be consistent with the requirements and conditions provided for agency leave bank programs in subchapter IV of such chapter.

"(3) Participation by a health-care professional in the leave transfer program established pursuant to paragraph (1), and in any leave bank program established pursuant to such paragraph, shall be voluntary. The Secretary may not require any health-care professional to participate in such a program.

"(4)(A) The Secretary and the Director of the Office of Personnel Management may enter into an agreement that permits health-care professionals referred to in paragraph (1) to participate in the leave transfer program established by the Director of the Office of Personnel Management under subchapter III of chapter 63 of title 5 or in any leave bank program established for other employees of the Department pursuant to subchapter IV of chapter 63 of title 5, or both.

"(B) Participation of such health-care professionals in a leave transfer program or a leave bank program pursuant to an agreement entered into under subparagraph (A) shall be subject to such requirements and conditions as may be prescribed in such agreement.

"(5) The Secretary is not required to establish a leave transfer program for any personnel permitted to participate in a leave transfer program pursuant to an agreement referred to in paragraph (4)."; and

(B) by adding at the end the following new sections:

"§ 7424. Travel expenses of certain employees

"(a) The Secretary may pay the expenses (other than membership fees) of persons described in sections 7306 and 7401(1) of this title (including persons in positions described in section 7401(1) of this title who are appointed on a temporary full-time basis or a part-time

basis under section 7405 of this title) who are detailed by the Chief Medical Director to attend meetings of associations for the promotion of medical and related science.

“(b)(1) The Secretary may prescribe regulations establishing conditions under which officers and employees of the Administration who are nationally recognized principal investigators in medical research may be permitted to accept payment, in cash or in kind, from non-Federal agencies, organizations, and individuals for travel and such reasonable subsistence expenses as are approved by the Secretary pursuant to such regulations—

“(A) in connection with their attendance at meetings or in performing advisory services concerned with the functions or activities of the Department; or

“(B) in connection with acceptance of significant awards or with activity related thereto concerned with functions or activities of the Department.

“(2) Any such payment may be retained by such officers and employees to cover the cost of such expenses or shall be deposited to the credit of the appropriation from which the cost of such expenses is paid, as may be provided in such regulations.

“§ 7425. Employees: laws not applicable

“(a) Physicians, dentists, nurses, and other health-care professionals employed by the Administration and appointed under section 7306, 7401(1), 7405, or 7406 of this chapter are not subject to the following provisions of law:

“(1) Section 413 of the Civil Service Reform Act of 1978.

“(2) Subchapter II of chapter 31 of title 5.

“(3) Subchapter VIII of chapter 33 of title 5.

“(4) Subchapter V of chapter 35 of title 5.

“(5) Subchapter II of chapter 43 of title 5.

“(6) Section 4507 of title 5.

“(7) Subchapter VIII of chapter 53 of title 5.

“(8) Subchapter V of chapter 75 of title 5.

“(b) Notwithstanding any other provision of law, no provision of title 5 or any other law pertaining to the civil service system which is inconsistent with any provision of section 7306 of this title or this chapter shall be considered to supersede, override, or otherwise modify such provision of that section or this chapter except to the extent that such provision of title 5 or of such other law specifically provides, by specific reference to a provision of this chapter, or such provision to be superseded, overridden, or otherwise modified.

“§ 7426. Retirement rights

“(a) Except as provided in subsection (b), persons appointed to the Administration shall be subject to the provisions of and entitled to benefits under subchapter III of chapter 83 of title 5 or subchapter II of chapter 84 of title 5, whichever is applicable.

“(b)(1) In computing the annuity under subchapter III of chapter 83, or subchapter II of chapter 84, of title 5 of an individual who retires under such subchapter (other than under section 8337 or 8451 of such title) after December 31, 1981, and who served at any time on a less-than-full-time basis in a position in the Administration to which such individual was appointed under subchapter I—

“(A) for the purpose of determining such individual's average pay, as defined by section 8331(4) or 8401(3) of title 5, whichever

is applicable, the annual rate of basic pay for full-time service shall be deemed to be such individual's rate of basic pay; and

"(B) the amount of such individual's annuity as computed under section 8339 or 8415 of title 5 (before application of any reduction required by subsection (i) of section 8339) shall be multiplied by the fraction equal to the ratio that that individual's total full-time equivalent service bears to that individual's creditable service as determined under section 8332 or 8411 of title 5, whichever is applicable.

"(2) For the purposes of paragraph (1)(B), an individual's full-time equivalent service is the individual's creditable service as determined under section 8332 or 8411 of title 5, whichever is applicable, except that any period of service of such individual served on a less-than-full-time basis shall be prorated based on the fraction such service bears to full-time service. For the purposes of the preceding sentence, full-time service shall be considered to be 80 hours of service per biweekly pay period.

"(3) A survivor annuity computed under section 8341, or subchapter IV of chapter 84, of title 5 based on the service of an individual described in paragraph (1) shall be computed based upon such individual's annuity as determined in accordance with such paragraph.

"(c) The Secretary may authorize an exception to the restrictions in subsections (a), (b), and (c) of section 5532 of title 5 if necessary to meet special or emergency employment needs which result from a severe shortage of well-qualified candidates in physician positions, and registered nurse positions, which otherwise cannot be readily met. The authority of the Secretary under the preceding sentence with respect to registered-nurse positions expires on September 30, 1992."

(4) Chapter 74 is further amended by inserting after subchapter III (as added by section 102) the following:

"SUBCHAPTER IV—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

"§ 7453. Nurses: additional pay

"(a) In addition to the rate of basic pay provided for nurses, a nurse shall receive additional pay as provided by this section.

"(b) A nurse performing service on a tour of duty, any part of which is within the period commencing at 6 postmeridian and ending at 6 antemeridian, shall receive additional pay for each hour of service on such tour at a rate equal to 10 percent of the nurse's hourly rate of basic pay if at least four hours of such tour fall between 6 postmeridian and 6 antemeridian. When less than four hours of such tour fall between 6 postmeridian and 6 antemeridian, the nurse shall be paid the differential for each hour of service performed between those hours.

"(c) A nurse performing service on a tour of duty, any part of which is within the period commencing at midnight Friday and ending at midnight Sunday, shall receive additional pay for each hour of service on such tour at a rate equal to 25 percent of such nurse's hourly rate of basic pay.

"(d) A nurse performing service on a holiday designated by Federal statute or Executive order shall receive for each hour of such service the nurse's hourly rate of basic pay, plus additional pay at a

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rate equal to such hourly rate of basic pay, for that holiday service, including overtime service. Any service required to be performed by a nurse on such a designated holiday shall be deemed to be a minimum of two hours in duration.

"(e)(1) A nurse performing officially ordered or approved hours of service in excess of 40 hours in an administrative workweek, or in excess of eight hours in a day, shall receive overtime pay for each hour of such additional service. The overtime rates shall be one and one-half times such nurse's hourly rate of basic pay.

"(2) For the purposes of this subsection, overtime must be of at least 15 minutes duration in a day to be creditable for overtime pay.

"(3) Compensatory time off in lieu of pay for service performed under the provisions of this subsection shall not be permitted, except as voluntarily requested in writing by the nurse in question.

"(4) Any excess service performed under this subsection on a day when service was not scheduled for such nurse, or for which such nurse is required to return to the nurse's place of employment, shall be deemed to be a minimum of two hours in duration.

"(5) For the purposes of this subsection, the period of a nurse's officially ordered or approved travel away from such nurse's duty station may not be considered to be hours of service unless—

"(A) such travel occurs during such nurse's tour of duty; or

"(B) such travel—

"(i) involves the performance of services while traveling,

"(ii) is incident to travel that involves the performance of services while traveling,

"(iii) is carried out under arduous conditions as determined by the Secretary, or

"(iv) results from an event which could not be scheduled or controlled administratively.

"(f) For the purpose of computing the additional pay provided by subsections (b), (c), (d), or (e), a nurse's hourly rate of basic pay shall be derived by dividing such nurse's annual rate of basic pay by 2,080.

"(g) When a nurse is entitled to two or more forms of additional pay under subsections (b), (c), (d), or (e) for the same period of service, the amounts of such additional pay shall be computed separately on the basis of such nurse's hourly rate of basic pay, except that no overtime pay as provided in subsection (e) shall be payable for overtime service performed on a holiday designated by Federal statute or Executive order in addition to pay received under subsection (d) for such service.

"(h) A nurse who is officially scheduled to be on call outside such nurse's regular hours or on a holiday designated by Federal statute or Executive order shall be paid for each hour of such on-call duty, except for such time as such nurse may be called back to work, at a rate equal to 10 percent of the hourly rate for excess service as provided in subsection (e).

"(i) Any additional pay paid pursuant to this section shall not be considered as basic pay for the purposes of the following provisions of title 5 (and any other provision of law relating to benefits based on basic pay):

"(1) Subchapter VI of chapter 55.

"(2) Section 5595.

"(3) Chapters 81, 83, 84, and 87 of title 5.

"(j)(1) Notwithstanding any other provision of law and subject to paragraph (2), the Secretary may increase the rates of additional

pay authorized under subsections (b) through (h) if the Secretary determines that it is necessary to do so in order to obtain or retain the services of nurses.

“(2) An increase under paragraph (1) in rates of additional pay—

“(A) may be made at any specific Department health-care facility in order to provide nurses, or any category of nurses, at such facility additional pay in an amount competitive with, but not exceeding, the amount of the same type of pay that is paid to the same category of nurses at non-Federal health-care facilities in the same geographic area as such Department health-care facility (based upon a reasonably representative sampling of such non-Federal facilities); and

“(B) may be made on a nationwide, local, or other geographic basis if the Secretary finds that such an increase is justified on the basis of a review of the need for such increase (based upon a reasonably representative sampling of non-Federal health-care facilities in the geographic area involved).

“§ 7454. Physician assistants and other health care professionals: additional pay

“(a) Physician assistants and expanded-function dental auxiliaries shall be entitled to additional pay on the same basis as provided for nurses in section 7453 of this title.

“(b) When the Secretary determines it to be necessary in order to obtain or retain the services of certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists, or occupational therapists, the Secretary may, on a nationwide, local, or other geographic basis, pay persons employed in such positions additional pay on the same basis as provided for nurses in section 7453 of this title.

“(c) The Secretary shall prescribe by regulation standards for compensation and payment under this section.

“§ 7455. Increases in rates of basic pay

“(a)(1) Subject to subsections (b), (c), and (d), when the Secretary determines it to be necessary in order to obtain or retain the services of persons described in paragraph (2), the Secretary may increase the minimum, intermediate, or maximum rates of basic pay authorized under applicable statutes and regulations. Any increase in such rates of basic pay—

“(A) may be made on a nationwide basis, local basis, or other geographic basis; and

“(B) may be made—

“(i) for one or more of the grades listed in the schedules in subsection (b)(1) of section 7404 of this title;

“(ii) for one or more of the health personnel fields within such grades; or

“(iii) for one or more of the grades of the General Schedule under section 5332 of title 5.

“(2) Paragraph (1) applies to the following:

“(A) Individuals employed in positions listed in paragraphs (1) and (3) of section 7401 of this title.

“(B) Health-care personnel who—

“(i) are employed in the Administration (other than administrative, clerical, and physical plant maintenance and protective services employees);

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“(ii) are paid under the General Schedule pursuant to section 5332 of title 5;

“(iii) are determined by the Secretary to be providing either direct patient-care services or services incident to direct patient-care services; and

“(iv) would not otherwise be available to provide medical care and treatment for veterans.

“(C) Employees who are Department police officers providing services under section 218 of this title.

“(b) Increases in rates of basic pay may be made under subsection (a) only in order—

“(1) to provide pay in an amount competitive with, but not exceeding, the amount of the same type of pay paid to the same category of personnel at non-Federal facilities in the same labor market;

“(2) to achieve adequate staffing at particular facilities; or

“(3) to recruit personnel with specialized skills, especially those with skills which are especially difficult or demanding.

“(c) The amount of any increase under subsection (a) in the maximum rate for any grade may not (except in the case of nurse anesthetists and licensed physical therapists) exceed the amount by which the maximum for such grade (under applicable provisions of law other than this subsection) exceeds the minimum for such grade (under applicable provisions of law other than this subsection), and the maximum rate as so increased may not exceed the rate paid for individuals serving as Assistant Chief Medical Director.

“(d)(1) In the exercise of the authority provided in subsection (a) with respect to personnel described in subparagraph (B) or (C) of paragraph (2) of that subsection to increase the rates of basic pay for any category of personnel not appointed under subchapter I, the Secretary shall, not less than 45 days before the effective date of a proposed increase, notify the President of the Secretary's intention to provide such an increase.

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“(2) Such a proposed increase shall not take effect if, before the effective date of the proposed increase, the President disapproves such increase and provides the appropriate committees of the Congress with a written statement of the President's reasons for such disapproval.

“(3) If, before that effective date, the President approves such increase, the Secretary may advance the effective date to any date not earlier than the date of the President's approval.

“§ 7456. Nurses: special rules for weekend duty

“(a) Subject to subsection (b), if the Secretary determines it to be necessary in order to obtain or retain the services of nurses at any Department health-care facility, the Secretary may provide, in the case of nurses appointed under this chapter and employed at such facility, that such nurses who work two regularly scheduled 12-hour tours of duty within the period commencing at midnight Friday and ending at midnight the following Sunday shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full 40-hour basic workweek.

“(b)(1) Basic and additional pay for a nurse who is considered under subsection (a) to have worked a full 40-hour basic workweek shall be subject to paragraphs (2) and (3).

"(2) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled 12-hour tour of duty within the period commencing at midnight Friday and ending at midnight the following Sunday shall be derived by dividing the nurse's annual rate of basic pay by 1,248.

"(3)(A) Such a nurse who performs a period of service in excess of such nurse's regularly scheduled two 12-hour tours of duty is entitled to overtime pay under section 7453(e) of this title, or other applicable law, for officially ordered or approved service performed in excess of eight hours on a day other than a Saturday or Sunday or in excess of 24 hours within the period commencing at midnight Friday and ending at midnight the following Sunday.

"(B) Except as provided in subparagraph (C), a nurse to whom this subsection is applicable is not entitled to additional pay under section 7453 of this title, or other applicable law, for any period included in a regularly scheduled 12-hour tour of duty.

"(C) If the Secretary determines it to be further necessary in order to obtain or retain the services of nurses at a particular facility, a nurse to whom this paragraph is applicable who performs service in excess of such nurse's regularly scheduled two 12-hour tours of duty may be paid overtime pay under section 7453(e) of this title, or other applicable law, for all or part of the hours of officially ordered or approved service performed by such nurse in excess of 40 hours during an administrative workweek.

"(c) A nurse described in subsection (b)(1) who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of five hours of leave for three hours of absence.

"(d) The Secretary shall prescribe regulations for the implementation of this section.

"§ 7457. On-call pay

"(a) The Secretary may pay an employee to whom this section applies pay at the rate provided in section 7453(h) of this title except for such time as the employee may be called back to work.

"(b) This section applies to an employee who meets each of the following criteria:

"(1) The employee is employed in a position listed in paragraph (3) of section 7401 of this title or meets the criteria specified in clauses (i), (ii), and (iii) of section 7455(a)(2)(B) of this title.

"(2) The employee is employed in a work unit for which on-call premium pay is authorized.

"(3) The employee is officially scheduled to be on call outside such employee's regular hours or on a holiday designated by Federal statute or Executive order.

"(c) An employee who is eligible for on-call pay under subsection (a) and who was receiving standby premium pay pursuant to section 5545 of title 5 on May 20, 1988, shall, as long as such employee is employed in the same position and work unit and remains eligible for such standby pay, receive pay for any period of on-call duty at the rate equal to the greater of—

"(1) the rate of pay which such employee would receive if being paid the rate of standby pay pursuant to such section that such individual would be entitled to receive if such individual were not scheduled to be on call instead, or

Regulations.

“(2) the rate of pay which such employee is entitled to receive including on-call premium pay described in subsection (a).”.

(5) Such chapter is further amended by adding after subchapter V (as added by section 203(a)) the following:

“SUBCHAPTER VI—REGIONAL MEDICAL EDUCATION CENTERS

“§ 7471. Designation of Regional Medical Education Centers

“(a) In carrying out the Secretary’s functions under section 7302 of this title with regard to the training of health personnel, the Secretary shall implement a program under which the Secretary shall designate as Regional Medical Education Centers such Department hospitals as the Secretary determines appropriate to carry out the provisions of this subchapter.

“(b) Each Regional Medical Education Center (hereinafter in this subchapter referred to as ‘Center’) designated under subsection (a) shall provide continuing medical and related education programs for personnel eligible for training under this subchapter. Such programs shall include the following:

“(1) The teaching of newly developed medical skills and the use of newly developed medical technologies and equipment.

“(2) Advanced clinical instruction.

“(3) The opportunity for conducting clinical investigations.

“(4) Clinical demonstrations in the use of new types of health personnel and in the better use of the skills of existing health personnel.

“(5) Routine verification of basic medical skills and, where determined necessary, remediation of any deficiency in such skills.

“§ 7472. Supervision and staffing of Centers

“(a) Centers shall be operated under the supervision of the Chief Medical Director and shall be staffed with personnel qualified to provide the highest quality instruction and training in various medical and health care disciplines.

“(b) As a means of providing appropriate recognition to persons in the career service of the Administration who possess outstanding qualifications in a particular medical or health care discipline, the Chief Medical Director shall from time to time and for such period as the Chief Medical Director considers appropriate assign such persons to serve as visiting instructors at Centers.

“(c) Whenever the Chief Medical Director considers it necessary for the effective conduct of the program provided for under this subchapter, the Chief Medical Director may contract for the services of highly qualified medical and health personnel from outside the Department to serve as instructors at such Centers.

“§ 7473. Personnel eligible for training

“(a) The Chief Medical Director shall determine the manner in which personnel are to be selected for training in the Centers. Preference shall be given to career personnel of the Administration.

“(b) To the extent that facilities are available medical and health personnel from outside the Administration may, on a reimbursable basis, be provided training in the Centers. Such reimbursement may include reciprocal training of personnel of the Administration pro-

vided under sharing arrangements entered into by the Chief Medical Director and the heads of the entities providing such reciprocal training. Any amounts received by the United States as reimbursement under this subsection shall be credited to the applicable Department medical appropriation account.

“§ 7474. Consultation

“The Chief Medical Director shall carry out this subchapter after consultation with the special medical advisory group established pursuant to section 7312(a) of this title.”

(c) TRANSFERS OF CHAPTER 73 SECTIONS TO NEW CHAPTER 74.—(1)(A) Sections 4141 and 4142, as amended by section 301, are redesignated as sections 7451 and 7452, respectively, and are transferred to subchapter IV of chapter 74, as added by subsection (b), and inserted before section 7453.

(B) The heading for subchapter IV of chapter 73, as added by section 102(b) of Public Law 101-366, is repealed.

(2) Section 7451, as so redesignated and transferred, is amended—

(A) in subsection (a)—

(i) by striking out “clauses (1) and (3) of section 4104” in paragraph (2)(B) and inserting in lieu thereof “paragraphs (1) and (3) of section 7401”;

(ii) by striking out “section 4107” in paragraph (3) and inserting in lieu thereof “section 7404”;

(iii) by striking out “section 4142” in paragraph (4) and inserting in lieu thereof “section 7452”;

(B) by striking out “section 4104(1)” and “section “4107(b)” in subsection (b) and inserting in lieu thereof “section 7401(1)” and “section 7404(b)”, respectively; and

(C) by striking out “section 4142(b)(2)” in subsection (g)(8) and inserting in lieu thereof “section 7452(b)(2)”.

(3) Section 7452, as so redesignated and transferred, is amended—

(A) in subsection (a)—

(i) by striking out “section 4141(a)” in paragraph (1) and inserting in lieu thereof “section 7451(a)”; and

(ii) by striking out “section 4141(c)(1)” in paragraph (2) and inserting in lieu thereof “section 7451(c)(1)”; and

(B) by striking out “section 4141(g)” in subsection (b)(2) and inserting in lieu thereof “section 7451(g)”; and

(C) by striking out “section 4104(1)” in subsections (c)(1) and (e) and inserting in lieu thereof “section 7401(1)”; and

(D) by striking out “section 4141” in subsection (f) and inserting in lieu thereof “section 7451”.

(4) Section 4120 of such title, as in effect on the day before the date of the enactment of this Act, is redesignated as section 7458, transferred to the end of subchapter IV of chapter 74 of that title, as added by subsection (b), and amended by striking out “section 4118 of this title” in subsection (f) and inserting in lieu thereof “subchapter III”.

SEC. 402. REDESIGNATION OF SECTIONS OF CHAPTERS 51 THROUGH 85.

(a) TRANSFER OF CHAPTER 75.—Chapter 75 is transferred to the end of part V and is redesignated as chapter 78.

(b) REDESIGNATION OF SECTIONS TO CONFORM TO CHAPTER NUMBERS.—(1) Each section contained in any of chapters 51, 53, 55, 57, 59, 61, 71, 72, 76, 78 (as redesignated by subsection (a)), 81, 83, and 85 is redesignated so that the first two digits of the section number of

that section are the same as the chapter number of the chapter containing that section.

(2) Chapter 82 is amended—

(A) by redesignating section 5070 as section 8201;

(B) by redesignating sections 5071, 5072, 5073, and 5074 as sections 8211, 8212, 8213, and 8214, respectively;

(C) by redesignating sections 5081, 5082, and 5083 as sections 8221, 8222, and 8223, respectively;

(D) by redesignating sections 5091, 5092, and 5093 as sections 8231, 8232, and 8233, respectively; and

(E) by redesignating section 5096 as section 8241.

(c) TABLES OF SECTIONS AND CHAPTERS.—(1) The tables of sections at the beginning of the chapters referred to in subsection (b) are revised so as to conform the section references in those tables to the redesignations made by that subsection.

(2) The table of chapters before part I and the tables of chapters at the beginning of parts IV, V, and VI are revised so as to conform the section references in those tables to the redesignations made by subsection (b).

(d) CROSS-REFERENCES.—(1) Each provision of title 38, United States Code, that contains a reference to a section redesignated by section 401(a)(4) or by subsection (b) is amended so that the reference refers to the section as redesignated.

(2) Any reference in a provision of law other than title 38, United States Code, to a section redesignated by subsection (b) shall be deemed to refer to the section as so redesignated.

SEC. 403. CONFORMING AMENDMENTS.

(a) SUBCHAPTERS OF CHAPTER 73.—Subchapter III and subchapter IV (as redesignated by section 401(a)(2)) of chapter 73 are amended—

(1) by striking out “Administrator” and “Administrator’s” each place they appear and inserting in lieu thereof “Secretary” and “Secretary’s”, respectively; and

(2) by striking out “Veterans’ Administration” each place it appears and inserting in lieu thereof “Department”;

(3) by striking out “section 4101(c)(1)” in section 7362 and inserting in lieu thereof “section 7303(a)”;

(4) by striking out “of this section” and “of this subsection” each place they appear (other than in subsections (d), (e), and (g) of section 7332 and in section 7333(b)); and

(5) by striking out “of this paragraph” in section 7332(f)(2)(B).

(b) REFERENCES TO CHAPTER 73 PROVISIONS.—

(1) Section 1904(a) is amended by striking out “section 4101” and inserting in lieu thereof “section 7303”.

(2) Section 5705(a) (as redesignated by section 402(b)) is amended by striking out “section 4152(b)” and inserting in lieu thereof “section 7311(g)”.

(3) Section 7604(1)(B) (as redesignated by section 402(b)) is amended by striking out “section 4105” and inserting in lieu thereof “section 7402”.

(4) Section 7612(b) (as redesignated by section 402(b)) is amended—

(A) in paragraph (2)—

(i) by striking out “section 4104” in the matter preceding subparagraph (A) and inserting in lieu thereof “section 7401”; and

(ii) by striking out "section 4104(3)" in subparagraph (B) and inserting in lieu thereof "section 7401(3)"; and (B) in paragraph (3), by striking out "section 4107(g)(1)(B) of this title" and inserting in lieu thereof "subsection (a)(1) of section 7455 of this title for personnel described in subsection (a)(2)(B) of such section".

(5) Section 7616(b)(4) (as redesignated by section 402(b)) is amended by striking out "section 4108(c)(1)" and inserting in lieu thereof "section 7423(d)(1)".

(6) Section 8201(f) (as redesignated by section 402(b)) is amended by striking out "section 4101(b)" and inserting in lieu thereof "section 7302".

(7) Section 8241 (as redesignated by section 402(b)) is amended by striking out "section 4101(b)" and inserting in lieu thereof "section 7302".

(c) REFERENCES IN TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended as follows:

(1) Section 5102(c) is amended—

(A) in paragraph (14), by striking out "section 4202 of title 38" and inserting in lieu thereof "section 7802 of title 38"; and

(B) in paragraph (16), by striking out "section 4114" and inserting in lieu thereof "sections 7405 and 7406".

(2) Section 6123 is amended—

(A) in subsection (a)(1), by striking out "section 4107(e)(5)" and inserting in lieu thereof "section 7453(e)"; and

(B) in subsection (c)(2)—

(i) by striking out "section 4107(e)(2)" in the matter preceding subparagraph (A) and inserting in lieu thereof "section 7453(b)"; and

(ii) by striking out "subsection (e)(2) of such section 4107" in subparagraph (B) and inserting in lieu thereof "subsection (b) of such section 7453".

(3) Section 6128(a) is amended by striking out "section 4107(e)(5)" and inserting in lieu thereof "section 7453(e)".

(e) PART V HEADING.—

(1) The heading of part V is amended to read as follows:

"PART V—BOARDS, ADMINISTRATIONS, AND SERVICES".

(2) The item relating to part V in the table of parts before part I is amended to read as follows:

"V. Boards, Administrations, and Services..... 7101".

(f) TABLES OF CHAPTERS.—

(1) The table of chapters before part I is amended—

(A) by striking out the heading for part V and inserting in lieu thereof the following:

"PART V—BOARDS, ADMINISTRATIONS, AND SERVICES";

(B) by striking out the items relating to chapters 73 and 75 and inserting in lieu thereof the following:

- "73. Veterans Health Administration—Organization and Functions 7301
 "74. Veterans Health Administration—Personnel 7401";
 and
 (C) by inserting after the item relating to chapter 76 the following new item:
 "78. Veterans' Canteen Service 7801".
 (2) The table of chapters at the beginning of part V is amended—
 (A) by striking out the items relating to chapters 73 and 75 and inserting in lieu thereof the following:
 "73. Veterans Health Administration—Organization and Functions 7301
 "74. Veterans Health Administration—Personnel 7401";
 and
 (B) by adding at the end the following new item:
 "78. Veterans' Canteen Service 7801".

Approved May 7, 1991.

LEGISLATIVE HISTORY—H.R. 598 (S. 675):

CONGRESSIONAL RECORD, Vol. 137 (1991):

Jan. 30, considered and passed House.

Apr. 17, considered and passed Senate, amended, in lieu of S. 675.

Apr. 23, House concurred in Senate amendment.